

1 UNITED STATES DISTRICT COURT
2 DISTRICT OF PUERTO RICO
3
4 In Re:) Docket No. 3:17-BK-3283 (LTS)
5)
6) PROMESA Title III
7 The Financial Oversight and)
8 Management Board for)
9 Puerto Rico,) (Jointly Administered)
10)
11 *as representative of*)
12)
13 The Commonwealth of)
14 Puerto Rico, *et al.*) July 13, 2021
15)
16 Debtors,)
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12 In Re:) Docket No. 3:17-BK-3566 (LTS)
13)
14) PROMESA Title III
15 The Financial Oversight and)
16 Management Board for)
17 Puerto Rico,) (Jointly Administered)
18)
19 *as representative of*)
20)
21 The Employees Retirement)
22 System of the Government)
23 of the Commonwealth of)
24 Puerto Rico,)
25 Debtors,)

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2
3 In Re:) Docket No. 3:19-BK-5523 (LTS)
4)
5) PROMESA Title III
6 The Financial Oversight and)
Management Board for)
7 Puerto Rico,) (Jointly Administered)
8)
9 *as representative of*)
10)
11 The Puerto Rico Public)
Buildings Authority,)
12)
13 Debtors,)
14)

15
16 DISCLOSURE STATEMENT HEARING
17
18 BEFORE THE HONORABLE U.S. DISTRICT JUDGE LAURA TAYLOR SWAIN
19
20 UNITED STATES DISTRICT COURT JUDGE
21
22 AND THE HONORABLE U.S. MAGISTRATE JUDGE JUDITH GAIL DEIN
23
24 UNITED STATES DISTRICT COURT JUDGE
25

18 APPEARANCES:

19 ALL PARTIES APPEARING TELEPHONICALLY

20 For The Commonwealth
21 of Puerto Rico, *et al.*: Mr. Martin J. Bienenstock, PHV
22 Mr. Brian S. Rosen, PHV
Ms. Margaret Dale, PHV

23 For Puerto Rico Fiscal
24 Agency and Financial
Advisory Authority: Mr. John Rapisardi, PHB
Mr. Peter Friedman, PHV
25

1	APPEARANCES, Continued:	
2	For The Official	
3	Committee of Unsecured	
4	Creditors of all	
5	Title III Debtors:	Mr. Luc A. Despins, PHV
6		
7	For The Official	
8	Committee of Retired	
9	Employees:	Mr. Robert Gordon, PHV
10		Ms. Catherine Steege, PHV
11		
12	For Peter Hein:	Mr. Peter Hein, Pro Se
13		
14	For AmeriNational	
15	Community Services:	Mr. Nayuan Zouairaban, Esq.
16		Mr. Arturo J. Garcia Sola, Esq.
17		
18	For Cantor-Katz	
19	Collateral Monitor:	Mr. Douglas Mintz, PHV
20		Mr. Douglas I. Koff, PHV
21		
22	For Assured Guaranty	
23	Corp. and Assured	
24	Guaranty Municipal	
25	Corp.:	Mr. William J. Natbony, PHV
26		
27	For Financial Guaranty	
28	Insurance Company:	Mr. Martin A. Sosland, PHV
29		
30	For Ambac Assurance	
31	Corporation:	Ms. Atara Miller, PHV
32		
33		
34	For National Public	
35	Finance Guarantee	
36	Corporation:	Ms. Kelly DiBlasi, PHV
37		
38		
39	For The ERS	
40	Bondholders:	Mr. Benjamin Rosenblum, PHV
41		
42	For U.S. Bank National	
43	Association, solely in	
44	its capacity as	
45	successor trustee:	Mr. Clark T. Whitmore, PHV

1 APPEARANCES, Continued:
2
3 For U.S. Bank Trust
National Association: Mr. Ronald J. Silverman, PHV
4
5 For the Underwriter
Defendants: Mr. Howard S. Steel, PHV
6
7 For Salud Integral
de la Montana, Inc.: Mr. John E. Mudd, Esq.
8
9 For PFZ Properties,
Inc., and 1983 Group: Mr. David Carrion Baralt, Esq.
Mr. Russell Del Toro Sosa, Esq.
10
11 For Suiza Dairy Corp.: Mr. Rafael A. Gonzalez Valiente, Esq.
12
13 For Finca Matilde: Mr. Eduardo Capdevila Diaz, Esq.
14
15 For Vaquería
Tres Monjitas, Inc.: Ms. Wendy Marcari, PHV
Mr. Gerardo Carlo Altieri, Esq.
16
17 Pro Se Speakers: Mr. Antonio Martin Cerezo
Ms. Nancy Negron Lopez
18 Ms. Myriam Yashei Rosario
19
20 Court Interpreter: Ms. Carol Terry, USCCI
21
22
23
24
25 Proceedings recorded by stenography. Transcript produced by
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1	I N D E X	
2	WITNESSES:	PAGE
3	None.	
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5	EXHIBITS:	
6	None.	
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1 San Juan, Puerto Rico

2 July 13, 2021

3 At or about 9:30 AM

4 * * *

5 THE COURT: Good morning. This is Judge Swain
6 speaking.

7 MS. NG: Good morning, Judge. This is Lisa, your
8 courtroom deputy. Everyone is here.

9 THE COURT: Thank you very much. Ms. Tacoronte?

10 COURTROOM DEPUTY: Good morning, Your Honor. This is
11 Maria Luz for the record.

12 The United States District Court for the District of
13 Puerto Rico is now in session. The Honorable Laura Taylor
14 Swain and also the Honorable Judith Gail Dein presiding. God
15 save the United States of America and this Honorable Court.

16 Bankruptcy Case No. 17-3283, *In re: The Financial*
17 *Oversight and Management Board for Puerto Rico, as*
18 *representative of the Commonwealth of Puerto Rico, et al.,* for
19 Disclosure Statement hearing.

20 THE COURT Thank you, Maria Luz.

21 Buenos dias. Welcome, counsel, parties in interest,
22 and members of the public and press. Today's hearing concerns
23 the Oversight Board's request for approval of the Disclosure
24 Statement for the Fifth Amended Title III Joint Plan of
25 Adjustment of the Commonwealth of Puerto Rico, the Employees

1 Retirement System of the Government of the Commonwealth of
2 Puerto Rico, and the Puerto Rico Public Buildings Authority,
3 as well as procedures, deadlines, and hearing dates related to
4 that Disclosure Statement and the Proposed Plan of Adjustment.
5 Magistrate Judge Dein and I will be presiding jointly for the
6 confirmation procedures portion of the Agenda.

7 To ensure the orderly operation of today's telephonic
8 hearing, all parties on the line must mute their phones when
9 they are not speaking. If you are accessing these proceedings
10 on a computer, please be sure to select "mute" on both the
11 Court Solutions dashboard and your phone. When you need to
12 speak, you must unmute on both the dashboard and the phone.

13 I remind everyone that consistent with court and
14 judicial conference policies and the orders that have been
15 issued, no recording or retransmission of the hearing is
16 permitted by any person, including but not limited to the
17 parties, members of the public, and members of the press.
18 Violations of this rule may be punished with sanctions.

19 I will be calling on each speaker during these
20 proceedings. When I do, please identify yourself by name for
21 clarity of the record. After the speakers listed on the
22 Agenda for each of today's matters have spoken, I may provide
23 an opportunity for other parties in interest to address
24 briefly any issues raised during the course of the
25 presentations that require further remarks.

1 If you wish to be heard under these circumstances,
2 please state your name clearly at the appropriate time. Don't
3 just use the wave functions on the Court Solutions dashboard,
4 because I may not see that. I will call on the speakers if
5 more than one person wishes to be heard.

6 Please don't interrupt each other or me during the
7 hearing. If we interrupt each other, it is difficult to
8 create an accurate transcript of the proceedings. But having
9 said that, I apologize in advance for breaking this rule, as I
10 may interrupt if I have questions or if you go beyond your
11 allotted time. If anyone has any difficulty hearing me or
12 another participant, please say something right away.

13 The Amended Agenda, which was filed at docket entry
14 no. 17311 in case no. 17-3283 is available to the public at no
15 cost on Prime Clerk for those who are interested.

16 I encourage the speakers to keep track of their own
17 time. The Court will also be keeping track of the time and
18 will alert each speaker when there are two minutes remaining
19 with one buzz, and when time is up with two buzzes. Here is
20 an example of the buzz sound.

21 (Sound played.)

22 THE COURT: If your allocation is two minutes or
23 less, you will just hear the final two buzzes.

24 Our timing today is that the morning session will be
25 from now until 12:50 PM, that is, ten minutes to 1:00, and

1 then we will resume from 2:10 PM to 5:00 PM. We will take a
2 ten-minute break at around 11:00 AM and around 3:30 PM. When
3 we take breaks, I will direct everyone to disconnect and dial
4 back in at a specified time.

5 At the June Omnibus Hearing, I explained the need for
6 this Court to be assured that all of the parties have used
7 their best efforts in good faith to consider every potential
8 point of compromise, and to fairly assess that whatever firm
9 positions are taken are sufficiently essential that they are
10 worth risking failure to achieve a confirmable plan of
11 adjustment.

12 I had advised the parties of my intent to rely on
13 Judge Houser as mediation team leader for confirmation of her
14 belief that such good faith best efforts have been made. I
15 asked her to so confirm in writing by today. I am pleased to
16 see that Judge Houser has filed that certification at docket
17 entry no. 17314 in case no. 17-3283 this morning.

18 I now turn to the contested matters, the first of
19 which is the Disclosure Statement and solicitation procedures
20 motion. Before delving into the intricacies of the specific
21 objection arguments, I'm going to invite the Oversight Board
22 to make introductory remarks concerning the newly amended Plan
23 of Adjustment and Disclosure Statement it filed yesterday,
24 including an overview of yesterday's amended materials. I'd
25 like the Board to specify any changes that are significant in

1 connection with any of the objections that are expected to be
2 heard today, and to share its view of any changes the amended
3 materials might portend for today's Agenda.

4 The Court had originally allocated just five minutes
5 to the Oversight Board for introductory remarks, but I will
6 allow the Oversight Board to speak for up to 30 minutes, if
7 necessary, to address these additional issues. We will then
8 proceed with the further arguments.

9 So now I call on counsel for the Oversight Board for
10 introductory remarks.

11 MR. ROSEN: Good morning, Judge Swain. This is Brian
12 Rosen from Proskauer Rose. And with me today for the hearing
13 is Mr. Martin Bienenstock and Ms. Margaret Dale, and we will
14 be presenting the various matters that are going to be heard
15 today.

16 THE COURT: Good morning.

17 MR. ROSEN: Good morning.

18 Your Honor, as you just noted, we have filed last
19 evening a modified Fifth Amended Plan, as well as a
20 corresponding Disclosure Statement. Following the Court's
21 directives of several weeks ago, we had continued the
22 mediation process with Judge Houser, and we are happy to
23 report that as a result of those efforts by Judge Houser and
24 Judge Colton, we were able to reach an understanding with the
25 Unsecured Creditors Committee yesterday on the terms of

1 modified treatment for the holders of general unsecured claims
2 and eminent domain claims -- excuse me -- for both ERS and the
3 Commonwealth, for the unsecured, as well as a modified
4 treatment in connection with the convenience class.

5 We also, Your Honor, made some modifications, because
6 we entered into an amended and restated Plan Support Agreement
7 with respect to the GO PBA creditors. And what I'd like to
8 do, Your Honor, is just to go through what those various
9 changes are and the effect on the plan itself.

10 Specifically, Your Honor, with respect to the
11 Unsecured Creditors Committee, the absolute GUC recovery, as
12 it was referred to in the Plan, was increased from 125 million
13 dollars to 575 million dollars. Out of that 575 million
14 dollars, however, there will be some monies taken out in
15 connection with the administration of the avoidance actions
16 trust in an amount of up to 15 million dollars that will be
17 determined by the Creditors Committee at or prior to the
18 commencement of the confirmation hearing, and also the amounts
19 of monies necessary to satisfy the convenience class claims.

20 And additionally, Your Honor, because the two
21 appointees to the avoidance action trust board will be
22 involved in monitoring the claims reconciliation process that
23 is undertaken by the Oversight Board and AAFAF, as the case
24 may be, there was an amount of three million dollars on an
25 annual basis to compensate those appointees and their counsel

1 for the work done in connection with the monitoring services.

2 There were some other corresponding changes with
3 respect to the convenience class, Your Honor. The thresholds
4 were increased from 10,000 dollars per claim or 20,000 dollars
5 per claimant to 20,000 per claim and 40,000 per claimant, with
6 an aggregate cap of convenience claims of 65 million dollars.

7 And in the event that the Creditors Committee -- they
8 do have that right to waive that cap, and if it would be
9 waived or if it's not waived, Your Honor, the convenience
10 class creditors would share their pro rata share of that 65
11 million dollars in connection with those claims.

12 There are some other aspects that are set forth in
13 the committee agreement, Your Honor, that are not really Plan
14 related, but they go to the mechanics of what we're going to
15 be doing, including slight modifications to the Plan that was
16 filed last night, through subsequent conversations that I and
17 counsel for the Creditors Committee had late into the evening.
18 None of which, Your Honor, I believe are material changes, but
19 rather plumbing changes to the Plan. And that -- we will get
20 to those, Your Honor, in the next few days or so.

21 The other issue that I referred to, Your Honor, was
22 the amended and restated Plan Support Agreement. When we
23 executed the Plan Support Agreement in February of this year,
24 Your Honor, there was a level of attainment at which point
25 parties who wished to join that Plan Support Agreement would

1 be precluded from receiving any portion of the restriction
2 fees that were available to that. And, unfortunately, because
3 of the widespread interest in joining that, we immediately --
4 and I say immediately, probably within 12 hours hit the 70
5 percent threshold that was included in that Plan Support
6 Agreement.

7 There were parties who had been party to the prior
8 Plan Support Agreement by way of joinders that were
9 unfortunately, therefore, precluded from joining into the Plan
10 Support Agreement. So we have been working with those PSA
11 creditors, and Judge Houser, and Judge Colton, for a period of
12 months to try and come up with a way that we can address that
13 situation.

14 Specifically, Your Honor, we have now removed what
15 was the debt service reserve fund obligation within the Plan
16 Support Agreement, meaning the obligation of the Commonwealth
17 to put monies into an account, either on the effective date or
18 over a two-year period, and that money would otherwise be used
19 now to satisfy additional parties who will be party to that
20 Plan Support Agreement.

21 So no longer will there be a 30 percent -- excuse me,
22 a 70 percent threshold. It will be open to any party that
23 wishes to do so. As a result of that, there was a calculation
24 modification of the Plan Support Agreement fee, the
25 restriction fee as it's referred to, and that is contained in

1 Article III of the Plan that was filed last evening.

2 There are -- there was another change, Your Honor,
3 that we included in the Plan. And specifically, again,
4 through the ongoing efforts to reach resolution with multiple
5 parties, the Oversight Board and the Union, AMPR, have reached
6 an understanding with respect to an increased distribution for
7 the holders.

8 That increased distribution is predicated upon the
9 union ratifying the terms of that -- of the new Collective
10 Bargaining Agreement. And in the event that they do so, and
11 inform us in writing by September 30th that the Plan has --
12 excuse me, the Collective Bargaining Agreement has been
13 ratified, an enhanced treatment will be provided to those
14 holders.

15 So the Plan was modified to provide not only what the
16 Plan treatment would be in the event that they do not ratify
17 the terms of the new Collective Bargaining Agreement, but
18 Exhibit F-2 of the Plan includes this enhanced treatment if,
19 in fact, there is an understanding with this group of union
20 employees.

21 Your Honor, we did make a change with respect to the
22 PBA claims as well. Specifically, in discussions that we've
23 been having through the mediation team, as well as direct
24 communications with the DRA parties, we've gotten a better
25 understanding of what the claims and causes -- excuse me, the

1 claims might be against PBA that are held by the DRA parties.
2 And as a result of that, we are of the belief that they are
3 unsecured creditors. And as a result of that, Your Honor, we
4 have modified the treatment for the unsecured creditors and
5 the DRA parties who are similarly unsecured creditors at PBA
6 to provide for a ten percent threshold for recovery on account
7 of those claims. We believe that's all the funds that are
8 available to PBA. And the Plan now reflects that change.

9 Your Honor, there are also several federal claims
10 that had not been previously accounted for in the Plan, and
11 specifically these are claims held by the United States
12 Government, many of the departments and agencies of the
13 Federal Government. And we have included a new class, Class
14 66 of the Plan, which provides for the treatment for these
15 federal claims. And it also provides for ongoing dialogue
16 with the Federal Government to see if, in fact, there could be
17 an alternative treatment, and that is proposed in the Plan
18 with the Federal Government.

19 Lastly, Your Honor, there were changes that were
20 brought about to address some of the concerns associated with
21 releases, and specifically there was concerns that releases
22 were attempting to provide some releases for some non-Title
23 III debtors. And so what we have made expressly clear in the
24 modifications to the Plan, is that those entities are carved
25 out from receiving releases pursuant to the Plan. If, in

1 fact, we might have missed one, which I think someone has told
2 me that we might have missed one this morning, we will look at
3 that and we will try and make sure that we cover that
4 non-Title III debtor as far as a party not receiving a release
5 pursuant to the Plan.

6 So, Your Honor, that would be the executive summary
7 of changes to the Plan. I would also note, however, that we
8 are still in dialogue with the mediation team, and
9 specifically with Ambac and FGIC on the one hand. There are
10 proposals outstanding between the parties. We hope to
11 continue those conversations, even today, if at all possible,
12 during a break in these proceedings.

13 And we are also still -- we've begun a dialogue with
14 the DRA parties as well, not only with respect to the PBA
15 treatment that they are to receive, but across all of the
16 Title III debtors in which they have a claim. Most notably,
17 Your Honor, in connection with HTA, and with respect to the
18 clawback CBIs that will be issued pursuant to the Commonwealth
19 Plan of Adjustment, and what their share might be with respect
20 to that as a holder or an asserted holder of claims at HTA.
21 So all of those discussions are ongoing, Your Honor.

22 Unless you have any questions, Your Honor, that would
23 be the update on the changes.

24 Your Honor?

25 THE COURT: Sorry about that. I muted myself while

1 | you were speaking and forgot to unmute myself.

2 | MR. ROSEN: Okay.

3 | THE COURT: So I get a little of my own medicine
4 | there. Apologies for that delay.

5 | MR. ROSEN: No problem.

6 | THE COURT: Thank you very much for the executive
7 | summary. Did you wish to make a further opening statement in
8 | respect of the argument of the Disclosure Statement and
9 | Solicitation Motion issues?

10 | MR. ROSEN: Very briefly, Your Honor. As you know,
11 | on June 28 we filed an Omnibus Reply to the objections that
12 | had been interposed, not only to the Disclosure Statement, but
13 | also to the solicitation procedures and with respect to the
14 | subsequent motion that's to be heard, the confirmation
15 | procedures themselves, and the discovery associated with that.

16 | We believe that we have responded to all of the
17 | objections that have been interposed by inclusion of
18 | additional language in the Disclosure Statement itself. We've
19 | also noted in that Omnibus Reply that there are many issues
20 | that were raised by various objectants, which are truly
21 | confirmation related issues. And we'd be happy to address
22 | those at the confirmation hearing, rather than belaboring the
23 | point here today, because they do not impact in any way the
24 | Court's consideration and approval of the adequacy of the
25 | Disclosure Statement itself.

1 With me, as I said, Your Honor, is Mr. Bienenstock.
2 To the extent that there are any issues associated with
3 classification or preemption associated with those objections,
4 Mr. Bienenstock will be handling those points, and I will
5 handle the balance of the objections to the Disclosure
6 Statement, Your Honor.

7 So at this point what we would suggest, as we
8 included in the Agenda, we would allow the objecting parties
9 to move forward. Based upon the committee agreement that was
10 reached last night, I think that perhaps the Unsecured
11 Creditors Committee's presentation would be less than 20
12 minutes, as they are now in full support of the approval of
13 the Disclosure Statement and confirmation, although
14 Mr. Despins may have a few comments to add as well.

15 And I don't know if, in fact, other parties may want
16 to change their position based upon the ongoing nature of
17 discussions that we've continued to have through the mediation
18 team, Your Honor.

19 THE COURT: Thank you.

20 So what I will do is call on the parties in order of
21 the Agenda; and we'll see what they say, and whether there are
22 any requests for change in the anticipated order of the
23 Agenda.

24 Thank you very much, Mr. Rosen.

25 MR. ROSEN: Thank you, Your Honor. I'll mute myself

1 now.

2 THE COURT: Thank you.

3 Next on the Agenda is Ambac. So would counsel for
4 Ambac please unmute?

5 MS. MILLER: Good morning, Your Honor. Atara Miller
6 from Milbank on behalf of Ambac Assurance Corporation.

7 THE COURT: Good morning.

8 MS. MILLER: Good morning.

9 As Mr. Rosen just mentioned, we are still in active
10 discussions with the Oversight Board, you know, so I find
11 myself a little bit in the unfortunate position this morning
12 of standing up in opposition of the Oversight Board's motion
13 to approve the Disclosure Statement, yet still clinging to the
14 hope that we will continue to engage, even today, and that
15 Your Honor will ultimately be presented with a more broadly
16 consensual plan of adjustment.

17 In light of that, we're happy to proceed now. We do
18 think, though, that it would probably benefit everybody if
19 there were additional time today to see if more progress could
20 be made. But of course, you know, mindful of your schedule,
21 and the calendar that we have, we defer to Your Honor on how
22 best to proceed.

23 THE COURT: Well, if you think that ultimately issues
24 could be narrowed and time could be saved by, for instance,
25 deferring your argument to tomorrow morning, I suppose I could

1 | hear the other objectors who expect to go forward with their
2 | objections one way or another today; and hear the Oversight
3 | Board's response to arguments that are made today; and reserve
4 | decision on everything; and come back tomorrow morning to see
5 | whether you wish to make further argument; and hear any
6 | further response to that argument; and then render any rulings
7 | that may be necessary tomorrow morning.

8 | Many of the issues are intertwined, and it seems to
9 | me that some of the other objectors' arguments, or the brevity
10 | of those arguments may have been premised on an assumption
11 | that you would have made them first. So, yes, not having
12 | really had a chance to think about it until this minute, I'm
13 | wondering whether that will be a, you know, time, effort,
14 | confusion saving step for us or not if I defer you to tomorrow
15 | morning.

16 | I'll ask you to respond how you would prefer to go
17 | forward, because I can structure it either way.

18 | MS. MILLER: Well, first of all, thank you. I
19 | appreciate -- we appreciate the Court's flexibility on this.
20 | You know, understanding the potential complexities that it
21 | presents, we really do defer to you in part because we don't
22 | want to increase the burden on the Court. And, you know, I'm
23 | not sure that the individual objectors, particularly in light
24 | of the fact that objections were all filed simultaneously, are
25 | sort of depending on our objection, but I guess it's possible.

1 You know, I will say on that point that we have not
2 coordinated with individual objectors with respect to
3 allocation of arguments or issues. And so to the extent that
4 that's a reflection of whether or not others are relying on us
5 to take the lead on issues, I don't expect that would be a
6 significant point.

7 So, you know, our preference would be to defer it,
8 but we are extremely sensitive to the complication that it
9 presents.

10 THE COURT: Well, this is going to be complicated one
11 way or another, so --

12 MR. ROSEN: Your Honor.

13 THE COURT: Yes.

14 MR. ROSEN: I apologize. This is Brian Rosen. May I
15 be heard for just a moment?

16 THE COURT: Yes.

17 MR. ROSEN: Your Honor, you said it very well earlier
18 when you said many of the objections are intertwined. Because
19 of the complexity or the breadth of Ambac's objections, they
20 do cover many of the other points that were raised by many of
21 the other objectants.

22 If, in fact, you want to defer Ambac to tomorrow, my
23 suggestion would be, Your Honor, that you allow all of the
24 other objectants to go forward today. And if, in fact, we
25 don't have closure with Ambac this evening, allow Ambac to go

1 forward tomorrow morning, and then we would respond at one
2 time to all of those.

3 THE COURT: It certainly would have been my intention
4 to let everybody else go forward today, but you want to
5 reserve your reply to everything, which makes sense.

6 I would just warn everybody that if we are going to
7 have that sort of, you know, quite substantial session
8 tomorrow morning, which we can do, because of other
9 commitments tomorrow that I thought would not conflict with
10 this, we're going to have to have one of those two hour,
11 middle of the day breaks tomorrow, because I am necessarily
12 otherwise occupied between 12:00 and 2:00, if we can't get
13 everything done in the morning. So that's just a head's up
14 for everybody.

15 So what I will do is grant the request to defer the
16 Ambac argument to tomorrow morning, and anticipate deferring
17 the Oversight Board reply argument to tomorrow morning. I
18 will hear from the other parties, in opposition and in
19 support, who are on the Agenda today, and we will proceed in
20 that fashion.

21 So Ms. Miller is put over to tomorrow morning.

22 The next party on the Agenda is FGIC, Mr. Sosland.
23 Did you also wish to put over to tomorrow morning?

24 MR. SOSLAND: Yes, Your Honor. If it pleases the
25 Court, we are -- as Mr. Rosen noted, we are involved in the

1 same negotiations with Ambac and the Oversight Board, and I
2 think it makes sense to go forward at the same time that Ambac
3 does.

4 THE COURT: I agree. Very well. Then your time is
5 put over until tomorrow morning as well.

6 Next on my list are the DRA parties.

7 MR. MINTZ: Good morning, Your Honor. Doug Mintz of
8 Schulte Roth. Can you hear me?

9 THE COURT: Yes, I can. Thank you. Good morning,
10 Mr. Mintz.

11 MR. MINTZ: Good morning, Your Honor. And we are
12 prepared to go forward now. I will note before I start that,
13 you know, we did -- while our arguments were not intertwined
14 with Ambac's, we were obviously allotted less time than them,
15 so we take certain issues from our briefing that we will
16 address for the Court today. Our briefing still stands
17 obviously and addresses a wider range of issues that obviously
18 is part of the record here.

19 THE COURT: I have, of course, reviewed all of the
20 briefing, so I have that in mind.

21 MR. MINTZ: Okay.

22 THE COURT: So I have you down for seven minutes, or
23 are you taking -- seven minutes for Cantor-Katz and then seven
24 minutes for AmeriNational Community Services; is that correct?

25 MR. MINTZ: That's correct, Your Honor. We'll be

1 splitting the time approximately evenly.

2 THE COURT: Okay. Very good. So we'll start your
3 seven minutes now.

4 MR. MINTZ: Okay. Good morning, Your Honor. Doug
5 Mintz from Schulte Roth for Cantor-Katz Collateral Monitor,
6 LLC, joined by Arturo Garcia of McConnell Valdes for
7 AmeriNational Community Services, as servicer, together on
8 behalf of the GDB debt recovery authority.

9 The Court cannot approve this Disclosure Statement
10 and should not. As you will hear, there are a number of
11 problems with the proposed Disclosure Statement. I'll talk to
12 you about why the Commonwealth Plan is unconfirmable on its
13 face, enough the Disclosure Statement cannot be approved, with
14 a focus on the overlap between the Commonwealth Plan and HTA.

15 Mr. Garcia will cover other facial flaws in the
16 Commonwealth Plan with respect to claims with the Commonwealth
17 and PBA, as well as issues like preemption and releases.

18 Look, as you've heard already, people have worked
19 really hard to move this plan forward. This case can't stay
20 in Title III forever, and no one wants that. But that doesn't
21 mean the Oversight Board can just say, well, we have the power
22 to preempt all laws, so whatever we say works. No. Congress
23 imposes many burdens on the debtor, including complying with
24 applicable law, and at the Disclosure Statement stage,
25 ensuring that the plan is at least facially confirmable. This

1 one is not.

2 At a disclosure statement hearing, courts examine a
3 plan to determine whether it's so flawed that confirmation is
4 impossible. If it is, courts cannot approve the disclosure
5 statement. And that's citing *El Comandante Management*.

6 The Oversight Board responds to the general
7 confirmability objections, as Mr. Rosen did already, by saying
8 each of these are issues for confirmation. But here, the
9 flaws in the Commonwealth Plan are so problematic they simply
10 render the Commonwealth Plan unconfirmable and the Disclosure
11 Statement plan unapprovable.

12 There are significant flaws related to the Plan as it
13 addresses HTA and the clawback claims. The principal flaw of
14 the claim is it constitutes a back door sub rosa plan for HTA.

15 A sub rosa plan is a de facto plan of reorganization,
16 bypassing many of the Bankruptcy Code's fundamental creditor
17 protections. Courts prohibit sub rosa plans because they,
18 quote, short circuit the confirmation requirements of Chapter
19 11, from *Tempnology*, 542 B.R. 50.

20 Here, the Oversight Board, in proposing the
21 Commonwealth Plan, seeks to lock in terms of an HTA plan
22 before they've even gone to the trouble of filing one. This
23 would truly short circuit the HTA plan process.

24 Among the problematic terms, first, the Oversight
25 Board intends to use the Commonwealth Plan to distribute 264

1 million dollars in HTA assets to HTA bondholders to reduce
2 their HTA claims. And that's in the new plan at Section
3 83.1(b)(xv), I believe. This alone renders the plan improper.

4 Second, the Commonwealth Plan attempts to prejudge
5 priority at HTA, before we'd even gotten to the HTA plan
6 process, or any court has determined that priority separately.
7 For example, the proposed plan sets up a CBI payment reserve
8 for claims related to the clawback of revenues from HTA, but
9 the plan creates a waterfall where at the end of Exhibit J,
10 the very back of the PDF, that subordinates the DRA of HTA
11 loan recovery to all the HTA bonds. And the plan states
12 elsewhere that the DRA's HTA bond claims are almost pari passu
13 with the HTA bond claims. And in the new plan, that is
14 section 1.162, I believe.

15 There were some changes in the Disclosure Statement
16 last night that seemed to make it worse. To be honest, we
17 hadn't fully processed what was filed until late in the
18 evening.

19 Third, the release provisions in the Commonwealth
20 Plan are overly broad and may sweep in the likes of claims by
21 and against HTA. Again, those were modified late last night
22 and we are still evaluating those revisions. But I don't
23 think it changes our overarching analysis of a sub rosa plan.
24 And Mr. Garcia will talk about the releases a bit more
25 shortly.

1 We combine all of these --

2 THE COURT: A question, just to be clear.

3 MR. MINTZ: Yes.

4 THE COURT: Your sub rosa plan argument goes beyond
5 the issue of the release of HTA's claims against -- or the
6 resolution of HTA's claims against the Commonwealth? That's
7 question number one.

8 MR. MINTZ: Yes. So to answer question number one,
9 yes, the sub rosa plan argument including -- while it does
10 talk about the releases, also includes most critically a
11 determination of priority among HTA creditors, and the
12 distributions, as I said, from HTA to address HTA bondholder
13 claims.

14 THE COURT: I have read all of the briefing, and I
15 have looked at everything, but I haven't memorized
16 everything --

17 MR. MINTZ: Of course.

18 THE COURT: -- so forgive me if I ask a naive
19 question. So when you talk about the distribution of HTA's
20 assets, are you talking about the clawback funds that are in
21 controversy or are you talking about funds that are actually
22 at HTA?

23 MR. MINTZ: As we understand section 83.1(b)(xv) of
24 the --

25 (Sound played.)

1 COURT REPORTER: I'm sorry, Counsel. Your Honor,
2 this is the court reporter. If counsel could please state the
3 citation again, because the sound interrupted it.

4 MR. MINTZ: Yes, of course. It is 83.1(b)(xv).

5 THE COURT: Okay. And you say that that does what?

6 MR. MINTZ: As we understand that provision, Your
7 Honor, it distributes 264 million dollars from HTA, not from
8 the Commonwealth, to HTA bondholders, 68 and 98 bondholders,
9 and would reduce their HTA claims.

10 THE COURT: Thank you for that clarification.

11 MR. MINTZ: Thank you, Your Honor.

12 So we talked about the release provisions. When you
13 combine all of these provisions, you get the nearly complete
14 frame of an HTA plan.

15 And why are we doing this now? We look at the HTA
16 PSA, which locks in many of these provisions as part of the
17 deal with Assured and National, which own significant
18 Commonwealth and HTA claims; but the Oversight Board needs to
19 deal with the clawback and similar claims the right way. They
20 can either return the improperly clawed back funds to HTA
21 where they belong and resolve all issues under an HTA plan, or
22 put those funds in a reserve account with no parties paid
23 before the Court makes any sort of determination.

24 The Oversight Board argues that this is not a sub
25 rosa plan because, for example, those distributions are not

1 being made on account of HTA claims, and that there will be a
2 separate HTA plan of adjustment. Those arguments don't do the
3 trick.

4 We've addressed many of the points, but the fact that
5 there's a future HTA plan proves our point. This is not an HTA
6 plan. It is a sub rosa HTA plan without the protections of a
7 plan. So, to be sure, it's clear the Commonwealth Plan is not
8 just a Commonwealth Plan. It's a fully baked HTA plan that
9 violates applicable law.

10 Second, with respect to HTA, there is the HTA PSA,
11 which is incorporated into the Commonwealth Plan --

12 (Sound played.)

13 MR. MINTZ: Your Honor, may I have some additional
14 time in light of my answers to your questions?

15 THE COURT: You can have two minutes in total.

16 MR. MINTZ: Thank you, Your Honor.

17 The HTA PSA is incorporated into the Commonwealth
18 Plan and violates Rule 9019 in the Bankruptcy Code's priority
19 scheme. The issue right today is the HTA appears to be a
20 lynchpin to the Plan. If the PSA falls apart, we believe the
21 Plan could fall apart.

22 The Oversight Board must show, among other things,
23 that the PSA doesn't violate applicable law, that it is fair
24 and equitable. A settlement is fair and equitable under
25 Bankruptcy Rule 9019 if the settlement respects the applicable

1 priority of creditors. The HTA PSA would violate applicable
2 law for the reasons we just discussed, and it's not fair and
3 equitable, because it improperly determines priority at HTA
4 before this Court or any court has made a relevant
5 determination.

6 The latest Disclosure Statement includes comments
7 from the debtor that they believe the HTA loans are
8 subordinate, but no finding has been found.

9 Finally, there's disparate treatment of HTA claims in
10 class 56. The Commonwealth Plan is facially unconfirmable
11 because it treats those claims in class 56 differently in
12 violation of Section 1123(a)(4) of the Code. That requires
13 that a plan provide the same treatment for each claim of a
14 particular class.

15 In particular, the Commonwealth Plan treats holders
16 of the HTA bond in class 56 differently and better than
17 holders of the DRA loans in class 56. As noted, the HTA
18 bondholders are receiving 264 million dollars from HTA,
19 whereas the HTA loan claims do not participate in that
20 recovery. Second, it would pay the HTA bondholders
21 temporarily and priority wise before the HTA loan claims,
22 despite a lack of finding by the Court that this is
23 appropriate.

24 The Oversight Board responds, there is no disparate
25 treatment, because all class 56 creditors will recover pro

1 rata from the class recovery, but this is simply inaccurate.
2 Even putting aside the 264 million dollar paydown, courts find
3 that paying one creditor earlier than others violates
4 Bankruptcy Code Section 1123(a) as well, and that's from
5 *Brotby*, 303 B.R. 177.

6 So those are the issues with respect to HTA --

7 (Sound played.)

8 MR. MINTZ: -- and with that, I'll turn things over
9 right on time to Mr. Garcia.

10 THE COURT: Thank you very much, Mr. Mintz.

11 Mr. Garcia.

12 MR. GARCIA SOLA: Good morning, Your Honor. Arturo
13 Garcia Sola from McConnell Valdes, LLC, on behalf of
14 AmeriNational Community Services, LLC. I will discuss
15 additional DRA objections to the Disclosure Statement.

16 First, the Plan violates the Commonwealth Law and
17 Takings Clause. The Plan cannot be confirmed, because it
18 contravenes PROMESA Section 314(b)(3), and Bankruptcy Code
19 Section 1129(a)(3), by allowing the Commonwealth to
20 permanently retain the Act 30, 31 revenues.

21 As to violating the Commonwealth law, there is no
22 preemption. We dispute the FOMB's untenable position that
23 PROMESA has far-reaching preemptive effect and can justify the
24 FOMB ignoring other law. This is wrong because PROMESA does
25 not preempt all Commonwealth law, including Acts 30 and 31.

1 On the contrary, its text demonstrates an intent to preserve
2 and supplement, not supplant territorial law.

3 Frankly, if the FOMB preemption theory were allowed
4 to stand, it would yield on such -- dictatorial powers that
5 would enable the FOMB to disallow Puerto Rico's Constitution
6 and laws, whenever and wherever it deemed it appropriate.
7 This is not what the U.S. Congress intended when it approved
8 PROMESA.

9 Furthermore, there is no constitutional clawback.
10 The Disclosure Statement and Plan rely upon the Puerto Rico
11 Constitution to justify the illegal retention of the clawback
12 revenues, including the Act 30, 31 revenues, citing to Article
13 VI, Section 8 of the Constitution.

14 The FOMB will not be able to prove that the
15 Commonwealth complied with the Puerto Rico Constitution when
16 it clawed back the excise tax revenues from HTA. In fact, the
17 FOMB has not put forth any evidence, I underscore, any
18 evidence to prove that it satisfied the conditions to clawback
19 money.

20 To satisfy a constitutional clawback, the FOMB must
21 show, one, that it made a fiscal year by fiscal year analysis
22 on whether there was sufficient available resources; two, that
23 there were no available resources to meet the appropriations
24 for a given fiscal year; and three, that it used the clawback
25 revenues to pay GO debts in that fiscal year.

1 This is as much a disclosure issue as it is a
2 confirmability issue. The FOMB has not explained how they
3 have satisfied clawback standards for each fiscal year since
4 the filing of the Title III cases, because they simply cannot.
5 By the way, the FOMB also got the legal standard wrong when it
6 attempted to justify the Commonwealth's compliance with the
7 clawback.

8 As to the Takings Clause, the Plan violates the
9 clause by illegally diverting the DRA's collateral without
10 compensation, and such Takings Clause claims are not
11 dischargeable under applicable law.

12 The FOMB takes the position in its reply that even if
13 the Court finds that some or all of the claims are
14 nondischargeable, it can still confirm the Plan, but the FOMB
15 fails to address whether the Plan would still be feasible if
16 such claims are not discharged. If they are not, it would be
17 futile to go forward with solicitation of such plan, so it is
18 appropriate to address the issue at this Disclosure Statement
19 stage.

20 With respect to our PBA claims, I must start with a
21 statement that the DRA parties are still assessing the Fifth
22 Amended Plan and Disclosure Statement filed less than 18 hours
23 ago, in fact, while we were preparing for today's hearing.
24 Though we continue to fully vet the changes in the Fifth
25 Amended Plan, we know that at least one issue identified in

1 | our Disclosure Statement objection appears to have been
2 | addressed. That is the disparate treatment between the DRA's
3 | unsecured PBA claims and the PBA's general unsecured claims.

4 | However, even though the Fifth Amended Plan now
5 | provides that the DRA -- the DRA the same treatment as PBA
6 | general unsecured creditors, to PBA unsecured loans, it still
7 | does not address why the FOMB continues to place the DRA in a
8 | separate class from PBA general unsecured creditors.

9 | This separate classification hints at possible,
10 | quote, class gerrymandering, unquote, and renders the Plan
11 | unconfirmable under Bankruptcy Code Section 1122(a) and
12 | PROMESA Section 301(d).

13 | Another issue that remains unresolved in the Fifth
14 | Amended Plan is the justification for the treatment of the DRA
15 | PBA unsecured loans. Despite recognizing that the DRA's
16 | secured PBA claims are supported by the sale proceeds of
17 | certain buildings, the Disclosure Statement does not provide
18 | any information whatsoever regarding the values of said
19 | collateral to justify the estimated recovery to DRA under the
20 | Plan.

21 | Instead, the Fifth Amended Plan treats the DRA
22 | secured PBA claims as if these were wholly unsecured, and does
23 | not even disclose or contemplate the possibility that the DRA
24 | can make a section 1111(b) election as to them.

25 | (Sound played.)

1 MR. GARCIA SOLA: Lastly, despite treating the
2 unsecured PBA claims as if they were wholly unsecured, the
3 Fifth Amended Plan classifies them separately.

4 I turn now to the plan relief and exculpation
5 clauses, which remain overbroad. The Disclosure Statement
6 must provide enough information to enable the debtors,
7 creditors, and this Court to make an informed judgment about
8 the Commonwealth Plan.

9 The Disclosure Statement fails to satisfy the
10 standard, because it does not provide adequate information
11 concerning the scope and breadth of the plan release, its
12 injunctions and exculpations as they relate to HTA and its
13 creditors. In particular, the language contained in the
14 provisions preempts the DRA from determining whether those
15 claims against HTA and its creditors are impaired, and if so,
16 to what extent.

17 Turning now to disclosure objections, I start by
18 noting that the FOMB has not addressed many of our particular
19 disclosure based objections. We believe that all the DRA
20 disclosure based objections must be addressed in order for the
21 Disclosure Statement to provide adequate information to
22 creditors voting on the plan, but we address two in
23 particular.

24 First, the FOMB has failed to disclose which of the
25 DRA's assets purportedly qualify as class 60 CW appropriations

1 claims. The DRA needs to understand now which of its assets
2 may qualify as Class 60 claims, because the Plan proposes to
3 provide no recoveries for these claims.

4 Second, the Disclosure Statement fails to disclose
5 the risk that the Plan may not be confirmed and the GO PSA may
6 be terminated. If the DRA administrative expense claim motion
7 is granted, while the FOMB has to explain the other parties'
8 position on this issue, and to note the FOMB will request a
9 briefing schedule in connection therewith, this new language
10 fails to address how allowance of such claims would impact the
11 Plan feasibility and confirmation.

12 Lastly, Your Honor, I briefly address the opposition
13 to the DRA Disclosure Statement objection that was filed in
14 the motion --

15 (Sound played.)

16 THE COURT: Okay. Now start from the beginning of
17 that sentence again and wind up, please.

18 MR. GARCIA SOLA: Yes. Thank you, Your Honor.

19 We note simply that while relative priority of the
20 bondholders' clawback claims is not before the Court today, it
21 is an issue that remains unresolved, and must ultimately be
22 addressed by the Court, either in connection with confirmation
23 or in response to adversary complaint against the HTA
24 bondholders.

25 And with that, I rest, Your Honor, unless you have

1 any questions.

2 THE COURT: Thank you very much, Mr. Garcia. I don't
3 have any questions for you at this point.

4 MR. GARCIA SOLA: Thank you.

5 THE COURT: Thank you.

6 So now we will turn to the Unsecured Creditors
7 Committee. Mr. Despins. Mr. Despins, I can't hear you, so
8 have you completely unmuted?

9 MR. DESPINS: I apologize, Your Honor. Just still
10 figuring out these mute buttons.

11 THE COURT: Thank you. And good morning,
12 Mr. Despins.

13 MR. DESPINS: Can you hear me?

14 THE COURT: Yes. Just please state your name and
15 then start.

16 MR. DESPINS: Okay.

17 THE COURT: Can you hear me?

18 MR. DESPINS: Yes. I apologize, Your Honor.

19 Luc Despins with Paul Hastings on behalf of the
20 Official Creditors Committee.

21 And, Your Honor, in light of the settlement with the
22 Oversight Board, we have no comments, or we're not going to
23 make any representations to the Court this morning regarding
24 the Disclosure Statement.

25 THE COURT: Thank you.

1 MR. DESPINS: Thank you.

2 THE COURT: So now I will turn to the Group Wage
3 Creditors represented by Ms. Gonzalez Morales.

4 Ms. Gonzalez Morales, please unmute your phone and
5 also the dashboard for Court Solutions.

6 Ms. Ng, is Ms. Gonzalez Morales showing as present on
7 your dashboard?

8 MS. NG: Give me one second, Judge, because I'm
9 looking. Judge, I don't see her on. She was on before.

10 THE COURT: All right. I'll ask one more time, is
11 Ms. Gonzalez Morales on?

12 (No response.)

13 THE COURT: So what I'll do is mark for a second call
14 in case she got dropped and is coming back on.

15 MS. NG: Judge. Judge --

16 THE COURT: Yes.

17 MS. NG: -- I'm sorry to interrupt. Hold on one
18 second.

19 UNIDENTIFIED PERSON: Ms. Gonzalez Morales -- I'm
20 sorry.

21 THE COURT: Oh, good. You're on.

22 UNIDENTIFIED PERSON: Can you hear her?

23 THE COURT: I can hear somebody. I can hear whoever
24 said "can you hear her."

25 UNIDENTIFIED PERSON: Oh, okay. Sorry. I am

1 assisting Ms. Gonzalez with the system. If you can hear me,
2 then you're going to be able to hear her. I'll pass to her.

3 THE COURT: Okay. Very good.

4 MS. GONZALEZ MORALES: Excuse me, Your Honor. This
5 is Ivonne Gonzalez speaking. I represent a group of creditors
6 collectively. And I apologize for the interruption.

7 To begin with --

8 THE COURT: No problem.

9 MS. GONZALEZ MORALES: -- it is important to bring to
10 the consideration of the Court that the group of creditors I
11 represent are almost 14,000 employees that have cases. Five
12 of them have already final judgments for approximately 84
13 million dollars. Others are still pending, the cases. And
14 the back wages are approximately 240 million dollars.

15 We oppose the Disclosure Statement, because there is
16 a reclassification -- a problem with the classification of the
17 claim. When you examine and compare the class definition of
18 unsecured creditors in class 55, the employee creditors are
19 included in class 55, but the definition excludes the
20 particular wage creditors that are being transferred to the
21 administrative reconciliation procedures.

22 Also, when you examine class 49, they consist of
23 employees of AFSCME, American Federation of State, and their
24 return will be a hundred percent, while the wage creditors I
25 represent will only have almost a three percent recovery.

1 This disparate treatment violates the code -- equity of equal
2 distribution of similar classes.

3 We believe that the Omnibus Reply given by the
4 Oversight Board -- that this issue should be left to the
5 confirmation stage, is not sustained by any valid bankruptcy
6 dispositions. I think that the classification issue should be
7 resolved in this stage in order to -- in order to make the
8 plan confirmation more equitable.

9 And also regarding the Board's suggestion that the --
10 wait for the confirmation stage, to determine whether -- to
11 determine whether the Plan should be confirmed, we think that
12 it's not a valid reason, and it should be presented and
13 determined by this Court in this stage of the procedures.

14 Well, thank you very much, Your Honor. That would be
15 all.

16 (Sound played.)

17 THE COURT: Thank you very much, Ms. Gonzalez.

18 Next I have an allocation of two minutes for an Ad
19 Hoc Group of FGIC Noteholders represented by Mr. Larose.

20 MR. LAROSE: Good morning, Your Honor. Can you hear
21 me clearly?

22 THE COURT: Yes, I can. Good morning.

23 MR. LAROSE: Thank you, Your Honor. This is Lawrence
24 Larose from Sheppard Mullin Richter & Hampton, counsel to the
25 Ad Hoc Group of FGIC Insured Noteholders. Our members hold

1 over 500 million dollars at par amount of GO, HTA, CCDA, and
2 PRIFA bonds insured by FGIC.

3 Your Honor, I'm pleased to report to you this morning
4 that the Fifth Amended Disclosure Statement and Fifth Amended
5 Plan filed last evening appropriately addressed all of our
6 group's issues raised in our limited objections with respect
7 to the Disclosure Statement and the vast majority of our
8 issues with respect to the Plan.

9 Now, given the fact that we understand negotiations
10 are still ongoing, we must reserve our rights to object or
11 comment in the future on any proposed changes to the
12 Disclosure Statement, or the Plan, or issues raised by other
13 parties.

14 Your Honor, I'd be remiss this morning if I didn't
15 thank counsel to the debtors and the Board, in particular,
16 Mr. Rosen, for cooperatively and tirelessly working through
17 our issues with us.

18 Unless Your Honor has any questions, I will cede my
19 time back to the Court. Thank you, Your Honor.

20 THE COURT: Thank you, Mr. Larose.

21 So am I correct in understanding that at this point
22 you -- I may treat all of the objections that you raised as
23 having sufficiently been responded to?

24 MR. LAROSE: Yes, Your Honor, subject to our
25 reservation of any rights on any changes.

1 THE COURT: Yes. Thank you very much.

2 MR. LAROSE: Thank you.

3 THE COURT: So next I have AAFAF by Mr. Rapisardi.

4 MR. RAPISARDI: Good morning, Your Honor.

5 THE COURT: Good morning.

6 MR. RAPISARDI: This is John Rapisardi of O'Melveny &
7 Myers on behalf of AAFAF.

8 Your Honor, before the Court is AAFAF's limited
9 objection to the Board's Disclosure Statement for its Fifth
10 Amended Plan. Since the filing of our limited objection, the
11 Board has made additional settlements as reflected in the
12 Fourth and Fifth Amended Plan of Adjustment.

13 We wish to thank Judge Houser and Judge Colton for
14 their continued help in bringing about the latest settlements.
15 Certainly, without AAFAF's and the Oversight Board's
16 cooperation during the first half of the year, the recent
17 settlements could not have been possible.

18 This is evidence that when we work together as
19 partners, meaningful progress can be achieved in these cases.
20 We also hope that there will continue to be creativity brought
21 to resolve these Title III cases as expeditiously as possible.

22 Unfortunately, in spite of the progress made with the
23 filing of the Fifth Amended Plan of Adjustment, the Board
24 continues to insist upon unnecessary pension cuts and freezes.
25 As we noted in our limited objection, because the Board has

1 insisted on including pension cuts and freezes as part of the
2 Plan, there remains a meaningful risk legislation will not be
3 enacted.

4 I will not belabor the record, Your Honor, with our
5 repeated reasons why pension cuts and freezes are morally
6 wrong, unnecessary, and, in fact, solvable through a more
7 practical, fiscally sound approach. The fundamental question
8 that must be asked and answered is how the Board intends to
9 move forward with confirmation of this plan, which in numerous
10 instances is intrinsically connected to the passage of
11 legislation.

12 I refer the Court to conditions precedent at section
13 82.1 and 82.2 of the Plan, which includes as a condition, a
14 determination that the Commonwealth shall have pledged its
15 full faith, credit, and taxing power.

16 In the Oversight Board's Omnibus Reply, the Board
17 asserts that PROMESA completely preempts local law, and the
18 full faith, credit, and taxing power of the Puerto Rico
19 Constitution, thereby allowing the Court to order the issuance
20 of bonds, presumably and somehow backed by the full faith and
21 credit and taxing power of the Commonwealth, all without
22 authorizing legislation from the government.

23 But, Your Honor, this is not how the PSA or Plan is
24 structured, which is explicitly conditioned on the enactment
25 of the new GO bonds legislation and CBI legislation. In fact,

1 if such legislation is not enacted by the commencement of the
2 confirmation hearing, the PSA creditors are entitled to
3 exercise their right of termination under the Plan and collect
4 a 100 million dollar termination fee.

5 The fact of the matter is, Your Honor, that the Plan
6 is modeled after the COFINA Plan of Adjustment, which enjoyed
7 broad support from the Governor, legislature, creditors and
8 the Board. In connection with confirmation of a COFINA Plan,
9 and in briefing before this Court, all parties implicitly
10 acknowledged the absolute necessity and critical role of
11 enabling legislation. The unified approach achieved in COFINA
12 is no doubt an important reason for the immense success
13 enjoyed in the aftermath of the implementation of the COFINA
14 Plan.

15 As it relates to the Commonwealth Plan, the Board
16 sidesteps our question by saying that we got it wrong, because
17 PROMESA gave the Board broad and expansive powers to bypass
18 the government with respect to the issuance of securities
19 under the Plan. The Board's argument and legal gymnastics as
20 it relates to PROMESA Section 314(b)(5) and Bankruptcy Code
21 Section 1123(a)(5)(j), in our view, is wrong and overly
22 expansive.

23 Moreover, the Board neither addresses the inclusion
24 by Congress of the word "legislative" in section 314(b)(5),
25 nor acknowledges the limitations on the preemptive scope of

1 Bankruptcy Code Section 1123(a)(5), as noted by the First
2 Circuit Bankruptcy Appellate Panel's decision in *In re Irving*
3 *Tanning*.

4 However, Your Honor, we will concede --

5 (Sound played.)

6 MR. RAPISARDI: -- that these are confirmation
7 issues which can be briefed and addressed in detail in
8 connection with a confirmation of a plan of adjustment.

9 We do believe that, as a matter of disclosure, the
10 Board should acknowledge that it's embarking on a risky legal
11 path, an uncharted path that even if successful, will result
12 in the issuance of securities that are different than those
13 bought before, in which the financial markets might accept a
14 discount, thus impeding PROMESA's mandate for achieving fiscal
15 stability, and establishing access to the markets, and
16 creating a free flow of capital.

17 The Board's legal gamble raises now the legal
18 questions which are not addressed in the Disclosure Statement.
19 What kind of securities can be issued without legislation?
20 Would a court ordered security enjoy the full faith and pledge
21 of the Puerto Rico Constitution? Would such a security
22 benefit from the constitutional payment priority? Would such
23 a security enjoy tax exempt status? How would such an
24 unprecedented action adversely effect the Commonwealth's
25 financial rehabilitation?

1 It behooves the Board to provide clear and direct
2 answers to these critical questions as they concern inherent
3 powers of the Government of Puerto Rico, and the relevance of
4 that government at this important point and moment in Puerto
5 Rico's history. Consistent with the past, when the government
6 enacted legislation to enable the restructuring of GDB and
7 COFINA, and the transformation of PREPA, we believe there are
8 many creative ways for the Board and the government to work
9 collaboratively to adjust pensions in a right and just
10 fashion.

11 To this end, the Governor has signaled a willingness
12 to be creative and seek a solution concerning the public
13 pension issue within the confines of the fiscal plan and
14 budgeting process under Title II of PROMESA.

15 Your Honor, the Commonwealth's four year long and
16 difficult journey in Title III is thankfully winding to a
17 close, and the government remains the last party to whom the
18 Board has yet taken seriously. During that time, we have seen
19 this beautiful island --

20 (Sound played.)

21 MR. RAPISARDI: -- and its people go through much
22 tragedy and suffering. Your Honor, I hope and pray that this
23 last stumbling block is not resolved to more litigation and
24 delay, but is overcome to a consensus, and the success we
25 achieved in GDB and COFINA are repeated in a consensual plan

1 of the Commonwealth, with the Board, the government, and
2 creditors marching toward that final goal in unison.

3 Thank you, Your Honor.

4 THE COURT: Thank you, Mr. Rapisardi.

5 And next I have SIM, represented by Mr. Mudd.

6 MR. MUDD: Good morning, Your Honor. John Mudd for
7 Salud Integral de la Montaña.

8 THE COURT: Good morning.

9 MR. MUDD: Good morning, Your Honor.

10 First, and I think the most important part of the
11 Disclosure Statement is the financial information. Now, the
12 problem with the financial information is that the Board --
13 and I understand why -- does not want to certify how reliable
14 that information is. That's when you go to the part of the
15 financial statements -- which when I filed my motion, we were
16 missing 2017, '18, and '19.

17 On June 30th, the Commonwealth filed the 2017
18 financial -- audited financial statements, but we're still
19 missing two of them. Without that information, Your Honor, I
20 don't think an investor can make a decision on the Disclosure
21 Statement.

22 THE COURT: Mr. Mudd, are you still there? Mr. Mudd?

23 MR. MUDD: Yes, I'm here. Yes, I'm here.

24 THE COURT: Okay. There was a dramatic pause.

25 Okay.

1 MR. MUDD: No. Actually, it was my -- put something
2 in there that was not supposed to go -- okay.

3 Going back to the lack of information as to cash
4 accounts. Now, we have lots of cash in the accounts, and the
5 Board says some of them are restricted. Fine. No problem.
6 But why are they restricted, to give us a general idea of
7 that?

8 And they say, well, the government has told us the
9 reasons why they are, and we agree with them on these. But we
10 don't know how. We don't have any information as to that. I
11 think that's also a very important consideration for the
12 Disclosure Statement.

13 Continuing, there's a whole bunch of litigation, I'm
14 going to call it, about the party -- the professions, which
15 are going to fund the UCC or the unsecured creditors. Now, we
16 don't know what the state of those litigation is. We don't
17 know what -- how the trust is going to be functioning, et
18 cetera, and I think that's important information to be
19 brought.

20 Demographics and health care. This is very
21 important. We had, in the financing --

22 (Sound played.)

23 MR. MUDD: We had in the Plan, we have the
24 information as to the population of Puerto Rico was 2.9
25 million, when the census says it's 3.2 million. There's a

1 difference roughly of 11 percent. That is important. It
2 could make a huge difference on these things.

3 And since I don't have much time, I'm going to go
4 directly to something I think is very, very important. We
5 don't know, we don't have information from the government
6 whether -- if the plan of adjustment is approved as it is
7 presented with the pension cuts, et cetera, will the
8 government execute it. That is very important.

9 There is a whole bunch of fighting over the pensions,
10 and I understand that. But if it stands as it stands right
11 now, will the government put it into effect? And I think
12 that's extremely important.

13 And unless the Court has any questions, I think that
14 would be enough.

15 THE COURT: Thank you very much, Mr. Mudd.

16 MR. MUDD: No problem.

17 THE COURT: So next I have Mr. Kahn for AMC Group.

18 MR. KAHN: Good morning, Your Honor. Brad Kahn, Akin
19 Gump. Can you hear me?

20 THE COURT: Yes, I can. Good morning.

21 MR. KAHN: Good morning, Your Honor. Again, for the
22 record, Brad Kahn, Akin Gump Strauss Hauer & Feld on behalf of
23 certain federally qualified health centers that have been
24 referred to as the AMC Group. We filed a limited objection
25 and reservation of rights with respect to the Disclosure

1 Statement at docket no. 16988.

2 Your Honor, I'm not going to belabor the arguments
3 made there. I will note that my clients, as well as certain
4 of the other federally qualified health centers, have been
5 engaged in constructive settlement negotiations with the
6 Oversight Board and AAFAF, and we remain optimistic that an
7 agreement can be reached to resolve our objections to the
8 plan, and actually believe that in the Fifth Amended Plan that
9 was filed by the Oversight Board, there were a number of
10 changes made to the treatment of the med centers and there
11 that are part of those ongoing discussions and are being
12 reviewed by the health centers now in the hopes that we can
13 reach a consensual resolution of our issues and concerns.

14 You know, we raise a number of concerns, Your Honor,
15 in the limited objection with respect to the treatment of the
16 health centers' both prepetition and post-petition claims, as
17 well as the path forward for the Commonwealth's compliance
18 with the Medicaid Act.

19 Again, if we're able to reach resolution of the
20 issues, then we won't be asserting any of those objections to
21 confirmation, but we reserve on those items. In the interim,
22 the Oversight Board did agree to the inclusion of some
23 language in the Disclosure Statement to resolve our disclosure
24 related concerns.

25 And with that, Your Honor, I will end my

1 presentation. Thank you.

2 THE COURT: So for clarity, at this point, in light
3 of the developments so far and your optimism, are you not
4 pressing the Disclosure Statement objections that were offered
5 in your limited reservation of rights?

6 MR. KAHN: That's a fair characterization, Your
7 Honor.

8 THE COURT: Okay. Great. Thank you very much,
9 Mr. Kahn.

10 MR. KAHN: Thank you.

11 THE COURT: Next I have Mr. Steel for the Underwriter
12 defendants for five minutes.

13 MR. STEEL: Good morning, Your Honor. Can you hear
14 me?

15 THE COURT: Yes, I can. Good morning.

16 MR. STEEL: Thank you, Your Honor. For the record,
17 Howard Steel of Goodwin Procter on behalf of Goldman Sachs and
18 Citigroup. I'm here with my co-counsel, Ivan Llado, of have
19 Morell Bauza Cartagena & Dapena, and my partners, Charles
20 Brown and Stacy Dasaro. I'll preserve the argument of the
21 Underwriting defendants at large.

22 Your Honor, the Underwriting defendants support a
23 plan, support better financial recovery, and have been a
24 constructive participant in that process. However, due to the
25 Plan contained provisions, that could be read to improperly

1 | impair the Underwriter defendants' ability to defend
2 | themselves in certain litigations. And, unfortunately, the
3 | Disclosure Statement says nothing about how these provisions
4 | operate.

5 | The debtors did say in their supplemental reply that
6 | the Plan does not, and the debtors do not intend to limit the
7 | rights of, the defenses of the Underwriter defendants in the
8 | underwriter actions. That's good.

9 | Judge, we would like to hold them to their word. We
10 | sent them language for the Disclosure Statement and the Plan
11 | to preserve the defenses, and requested a conference to try to
12 | make some progress, but they never picked up the phone.

13 | Instead, in their papers they've cited to what is now
14 | Section 89.2(f) of the Fifth Amended Plan, and suggest that
15 | that preserves the defenses. But the Disclosure Statement
16 | contains no description how that section operates and its
17 | impact on the defense of rights. And, most importantly, there
18 | are numerous gaps in the language, which is not addressed in
19 | the Disclosure Statement and the Plan, and these gaps persist.
20 | And it's our fear that they could imperil our defenses and
21 | confirmation of this plan.

22 | So where things stand right now, Judge, there's an
23 | absence of disclosure. There are five deficiencies that I'll
24 | identify for the Court as it pertains to the Underwriter
25 | defendants and the preservation of the defenses.

1 First, Judge, it doesn't cover certain pending cases
2 against the Underwriter defendants. Our issue is why is the
3 Plan limiting the preservation of defenses to certain select
4 cases only? That doesn't make any sense to us.

5 Our second issue is it doesn't cover future cases
6 that might be filed against the Underwriters related to bonds
7 issued by the Commonwealth, its instrumentalities, or its
8 agencies. Again, the question is why are the debtors limiting
9 the preservation of Underwriter defenses to just a few current
10 cases when there's risks that there could be additional
11 litigation?

12 Our third issue, Judge, is it doesn't cover cases
13 that might be brought by other monoline insurers. Why are the
14 debtors limiting the preservation of our defenses to only a
15 handful of select monolines identified in the Plan? That
16 doesn't seem fair or just.

17 Our fourth issue, and this is an important one, it
18 doesn't specifically preserve our right to set off a
19 recoupment which can't be discharged under the Plan. It
20 doesn't, also, preserve our judgment reduction and allocation
21 of false rights.

22 And this one's really curious, Judge. They put
23 language in 89.2(f) about preservation of, quote, claims and
24 defenses, but it doesn't have the level of specificity to give
25 us the repose that we need. Our language properly

1 identifies --

2 (Sound played.)

3 MR. STEEL: -- the right to self recruitment and an
4 allocation of what is preserved, and we think that's what the
5 Disclosure Statement and Plan should say.

6 And our fifth issue is that it permits plan
7 documents, besides the plan, the confirmation order, and the
8 plan supplement to potentially impair these sets of rights.
9 Here, why are we leaving daylight for gamesmanship where
10 documents other than the plan, the confirmation order, or plan
11 supplement is permitted to repair these sets of rights? This
12 should be buttoned up.

13 In sum, Judge, we're trying to be constructive and
14 solve the disclosure and confirmation issues consensually.
15 We are willing to work today and tomorrow with the debtors to
16 try to work this out. However, as it currently sits, the
17 Disclosure Statement doesn't contain adequate information on
18 these issues.

19 The debtors haven't provided a description as to why
20 they think the confines of the plan is sufficient to preserve
21 the Underwriter defendants' defenses, or, alternatively, if
22 they are seeking to -- supporting them on a defense of rights.
23 Until these changes are made, Judge, we think the Disclosure
24 Statement cannot be approved.

25 And unless Your Honor has any questions, thank you.

1 THE COURT: Thank you, Mr. Steel.

2 Next I have Mr. Carrion for the group of Section 1983
3 Claimants.

4 MR. CARRION BARALT: Good morning, Your Honor. Can
5 you hear me?

6 THE COURT: Yes. Good morning.

7 MR. CARRION BARALT: Good morning.

8 Let me say our objection to the Third Amended Plan,
9 and since then a Fourth and a Fifth Amended Plan -- I
10 understand there's no changes regarding the particular issues
11 of the 1983 Claimants, but we preserve the right to make
12 further objections after further reviewing.

13 Let me simply state that the claim the 1983 Claimants
14 had is not against the Commonwealth. It's against the
15 employees of the Commonwealth in their official capacity. It
16 was -- it was the Commonwealth that voluntarily intervened in
17 those cases to provide legal representation and to assume
18 payment of any adverse judgment that may come at any future
19 time. The Disclosure Statement doesn't make any mention
20 whatsoever of these claims, and it apparently makes them fall
21 in the general unsecured classification. That of course --

22 (Sound played.)

23 MR. CARRION BARALT: -- means that it would be --
24 they would be receiving less than four percent of the
25 compensation that is awarded if in fact what appears to be the

1 Board's position is -- our position is that if the
2 Commonwealth decides to intervene, they cannot adjustment a
3 debt against a third party, which would be the individual
4 employees in their personal capacity. Doing so is not allowed
5 by neither bankruptcy laws, nor PROMESA specifically.

6 We are concerned regarding the confirmability of the
7 Disclosure Statement, but it wasn't made clear how much
8 litigation there is and what the policy is going to be
9 regarding these 1983 cases. Is the Commonwealth going to
10 continue to appear on behalf of them and pay the judgments
11 that may come, or are they simply saying no, we are not? And
12 in that case, would they allow the cases to continue the
13 regular course?

14 In any case, we think that the Plan cannot adjust the
15 debts of third parties, and, as such, it should be not
16 approved if in fact that is what it portends to do.

17 THE COURT: Thank you, Mr. Carrion.

18 Next I have U.S. Bank with three minutes for
19 Mr. Whitmore and six minutes for Mr. Silverman.

20 MR. WHITMORE: Thank you, Your Honor. Clark Whitmore
21 from Maslon, LLP, on behalf of U.S. Bank as the PREPA Bond
22 Trustee.

23 Can you hear me?

24 THE COURT: Yes, I can. Good morning.

25 MR. WHITMORE: Good morning.

1 Your Honor, U.S. Bank, as the PREPA bond trustee,
2 looks forward to the confirmation of a consensual Title III
3 Plan for the PREPA case, but based on the July 11th status
4 report, it looks like the PREPA plan will not be proposed
5 before the end of 2021, and will, therefore, trail behind the
6 Commonwealth Plan.

7 U.S. Bank filed a limited objection to the approval
8 of this Disclosure Statement based upon the releases and scope
9 of releases in the -- what was then the Third Amended
10 Commonwealth Plan. And U.S. Bank appreciates the correction
11 and clarification to the Commonwealth Plan stating clearly
12 that PREPA is not giving a release or getting a release of the
13 claims based upon the PREPA bonds. Thank you very much for
14 that. But there's still unfortunately a big problem relating
15 to the timing of the two plans.

16 This is because the Commonwealth continues in very
17 generic, broad language to seek prospective releases,
18 discharges, exculpations, injunctions, and bar orders in
19 section 89 of what is now the Fifth Amended Plan. That --

20 (Sound played.)

21 MR. WHITMORE: -- will potentially insulate the
22 Commonwealth from all Claims broadly defined, and all Causes
23 of Action broadly defined, up through and even after the
24 effective date of the Commonwealth Plan.

25 And this broad prospective release could include

1 claims and causes of action for misusing its governmental
2 powers in a manner inconsistent with the PREPA Authority Act
3 or the Constitution to indirectly impair the claims of the
4 PREPA bondholders as against PREPA.

5 This type of indirect impairment is an important
6 consideration that the Court should take into account in light
7 of the timing of the two plans, and any risk of that should be
8 appropriately disclosed in the Disclosure Statement so that
9 PREPA bondholders won't be misled into thinking that there are
10 no issues associated with the potential impairment of their
11 claims.

12 U.S. Bank has asked that the bond -- the Oversight
13 Board modify the plans to indicate unequivocally that there's
14 nothing in the Plan or the confirmation order that will
15 release, discharge, or enjoin any claims or causes of action
16 arising from or related to the PREPA bonds. That has been
17 rejected.

18 And if the Oversight Board and the Commonwealth
19 really intend to seek this Court's protection from the
20 consequences of potential governmental violations of statutes
21 or constitutional provisions related to the PREPA bonds, then
22 they should be required to disclose what they're doing clearly
23 in the Disclosure Statement. Hopefully that's not the case.

24 As I said, U.S. Bank looks forward to a consensual
25 PREPA plan, and appreciates the complexities that people are

1 facing with the timing of these two plans, and looks forward
2 to finding an accommodation of this issue. But it shouldn't
3 be lost, and there shouldn't be a risk that PREPA --

4 (Sound played.)

5 MR. WHITMORE: -- bondholders will not really know
6 what the score is, because of the categorical nature of the
7 Plan language.

8 Thank you, Your Honor.

9 THE COURT: Thank you, Mr. Whitmore.

10 And I have six minutes for Mr. Silverman.

11 MR. SILVERMAN: Thank you, Your Honor. This is Ron
12 Silverman. Can you hear me well?

13 THE COURT: Yes, I can. Good afternoon -- Good
14 morning.

15 MR. SILVERMAN: Just sneaking in the morning, Your
16 Honor. Good morning. For the record, Ronald Silverman from
17 Hogan Lovells US, LLP.

18 As Mr. Whitmore just stated, he represents U.S. Bank
19 with respect to certain PREPA bond issuances. We separately
20 represent U.S. Bank with respect to other bond issuances.

21 We filed four objections to the Disclosure Statement
22 on behalf of U.S. Bank: One as fiscal agent for PBA Bonds;
23 one as trustee for PRIFA bonds; one as trustee for PFC bonds;
24 and the fourth as trustee for multiple bonds issued by MFA,
25 PRIDCO, Children's Trust, UPR, and AFICA.

1 Your Honor, I'll use my minutes today to focus on
2 four key aspects of these objections. Some of them, such as
3 the third-party release issue, are common to the objections.
4 Some are specific to certain objections, in particular the PFC
5 bonds objections.

6 The first issue is one that's been addressed to some
7 extent by Mr. Rosen today, and by the FOMB's supplemental
8 response required by Your Honor with respect to the Disclosure
9 Statement. And that is the clarity or lack of clarity on
10 provisions of the Plan that affect third-party releases either
11 in favor of non-debtor entities and/or given by and imposed by
12 the Plan on non-debtor entities.

13 We do think that such third-party releases are
14 improper, but at today's disclosure statement stage, we focus
15 on the need for clarity. I will say that we're cognizant that
16 the Fourth Amended Plan, and the FOMB supplement, and perhaps
17 now even the Fifth Amended Plan, although obviously we're
18 still evaluating it, attempted to eliminate such third-party
19 releases. But, unfortunately, Your Honor, we think that's
20 still not clear. We've explained briefly why it's not clear,
21 and suggest a way to make it clear.

22 The Board supplement to the Omnibus Reply flatly
23 says, and I quote, the Plan has been revised to clarify, but
24 does not release the non-debtor instrumentalities from claims
25 against or bonds issued by those instrumentalities.

1 And, again, this morning Mr. Rosen said that that is
2 their intent; that the non-Title III debtors, if I understood
3 him correctly, are carved out of the releases; they may have
4 missed one; they'll check. We think, however, that
5 notwithstanding the statements in the reply, or the
6 supplemental reply, and in today's statements, those
7 statements are not what are in the Disclosure Statement, in
8 the Plan, and it's not clear that those documents say just
9 that.

10 What the Plan and Disclosure Statement do, as
11 incorporated into the Fourth and the Fifth Amended Plan, is
12 they say that certain enumerated non-debtor governmental
13 entities are carved out of the definition of release claims;
14 but those do not carve out other non-debtors, such as the GDB.
15 It doesn't carve out its Public Entity Trust in the DRA from
16 granting or giving releases.

17 There are other corporations that U.S. Bank, as
18 trustee, has claims against, such as MFA, PRIDCO, AFICA, and
19 Children's Trust, that are not carved out; and many other
20 government corporations, including those that made notes that
21 have pledged to US Bank as trustee for the PFC bonds, such as
22 Puerto Rico Solid Waste Authority, Puerto Rico Maritime
23 Shipping Authority, and Hotel Development Corporation. There
24 are others, and that's just by way of example, but I won't
25 belabor it.

1 The point is that if the intent is that non-Title III
2 debtor entities should be carved out from the releases, they
3 should be clearly carved out. There's a simple way to do
4 that. There's a clean way to do that with a stand alone
5 section.

6 In fact, even last night, it does appear that with
7 respect to PREPA, at section 89.2, there was a stand alone
8 section provided which talks about and makes statements about
9 GUC releases with respect to PREPA.

10 So, Your Honor --

11 (Sound played.)

12 MR. SILVERMAN: -- at this point, we're asking for
13 clarity, and in a simple way to make clear what is being
14 released, at least what third party releases are given, what
15 are granted. And there ought to be a clean, simple way to do
16 that.

17 A second issue, Your Honor, is whether or not claims
18 by the GDB against the Commonwealth are excluded from
19 treatment under the Plan or they're ignored. There are claims
20 that appear to be by the GDB in class 60 that were -- the GDB
21 appears to have claims that are both appropriation claims and
22 direct claims. It's unclear if the non-appropriation claims
23 are addressed in class 55, as a GUC or otherwise.

24 The Fifth Amended Plan appears to have said that the
25 claims by the DRA are not in the GUC class, but it's not clear

1 | if that applies just to the DRA claims or claims of the GDB
2 | held by the Public Entity Trust, which are the other half of
3 | the GDB assets that were split up, if those claims are
4 | included in class 55 or not, and if not, are they ignored.
5 | And there should be clarity in the Plan on that.

6 | Similarly, U.S. Bank has preserved claims against the
7 | Commonwealth for breach of its obligations to appropriate
8 | funds for notes that are owed to PFZ. Those claims for
9 | breach, in addition to the claims on underlying notes
10 | themselves, do appear to be classified, as best we can read
11 | it, in class 60 of appropriation claims, but received no
12 | distributions.

13 | To the extent that the breach claims, again, as the
14 | underlying claims themselves, allowed to recover, and cannot
15 | be in zero distribution class, and they have to be in their
16 | own class, in GUC class 55, because they'd be entitled to
17 | distribution. The Disclosure Statement should clarify this
18 | and provide for their classification.

19 | The third and the fourth issues, Your Honor, that
20 | I'll address briefly --

21 | (Sound played.)

22 | MR. SILVERMAN: Your Honor, can we have more time or
23 | is that the two-minute warning?

24 | THE COURT: I think that was the --

25 | (Sound played.)

1 THE COURT: Yes, that was the double thing, and so
2 please sum up quickly.

3 MR. SILVERMAN: I will, Your Honor. With just one
4 minute, I will sum up.

5 THE COURT: Thank you.

6 MR. SILVERMAN: What actions will the debtor seek
7 from the bond trustee, such as U.S. Bank, in connection with
8 the bonds and distributions? Will the trustee be asked to
9 take on work with respect to distributions? We clarified
10 that won't be the case with respect to limitation. However,
11 distribution is not addressed.

12 And will the trustee be asked for work in connection
13 with cancellation of bonds or related matters, payment for
14 these services, exculpation? These are all customary things
15 that are described usually in plans and disclosure statements,
16 and they are silent on here.

17 And the fourth and last area, what will happen to
18 certain governmental entities after the Plan, if it's
19 approved, particularly as applies to PRIFA and PFC, if PFC is
20 being deprived of funding, with respect to PFC -- and has no
21 money to pay its bonds, what will become of it?

22 Will it be canceled in the Disclosure Statement?
23 What will happen to the other entities?

24 Thank you for the extra time, Your Honor.

25 THE COURT: Thank you, Mr. Silverman.

1 So, Counsel, at this time we will take our morning
2 break. It is 11:08 by my clock. So we will reconvene in ten
3 minutes from now.

4 So that the phone system works correctly, please
5 disconnect, hang up, and call back in in ten minutes, and then
6 we will resume.

7 Thank you very much. Have a good break.

8 (At 11:08 AM, recess taken.)

9 (At 11:22 AM, proceedings reconvened.)

10 THE COURT: Good morning. This is Judge Swain back.

11 So the next party that I have for argument on the
12 Disclosure Statement Motion is PFZ for six minutes by
13 Mr. Carrion and/or Mr. Del Toro Sosa.

14 MR. CARRION BARALT: Good morning, Your Honor. David
15 Carrion Baralt again appearing on behalf of PFZ Properties.
16 May I proceed?

17 THE COURT: Yes. Good morning.

18 MR. CARRION BARALT: Good morning, Your Honor.

19 PFZ and several other eminent domain claimants object
20 to the Disclosure Statement for the Third, the Fourth, and the
21 Fifth Amended Plan of Adjustment, because the way it is
22 written, it allows a taking without just compensation, which
23 is unconstitutional under the Fifth Amendment of the
24 Constitution of the United States and the Constitution of
25 Puerto Rico.

1 We saw this morning that the Fifth Amended Plan for
2 the first time addressed a shortcoming that we had identified
3 in the sense that it did not have a number of claims or
4 monetary value for them. We reserve the right to review them
5 and object to them further along the way.

6 We have included in our objections some language that
7 in our opinion would cure the deficiencies if they are
8 included in a future amended disclosure statement. As the
9 Court requested that we discuss issues of law that were
10 referred for factual and procedural background, we move the
11 Court to our memorandum of law, which was filed at docket
12 16969.

13 Simply stated, the Disclosure Statement as presented
14 by debtors does not allow for the payment of the just
15 compensation that PFZ and other eminent domain creditors are
16 entitled to. Instead, PFZ and all other eminent domain
17 claimants without a final order seem to have been included in
18 class 55, which includes all unsecured claims, which,
19 according to debtor's statement, will pay an estimate of 3.8
20 cents on the dollar.

21 PFZ's position is simply that eminent domain claims
22 should be paid in full. They are simply not subject to
23 impairment or reduction in a bankruptcy readjustment plan.
24 Approving such a disclosure statement would render it and the
25 plan to be unconstitutional.

1 We have argued that -- and we repeated here, that
2 since 1935, the Supreme Court of the United States then by
3 voice of Judge Brandeis, in the case of *Louisville Joint Stock*
4 *Land Bank v. Radford*, stated that Congress may not pass laws
5 under its bankruptcy powers that would effect a taking of
6 private property without just compensation. Bankruptcy power,
7 like other powers of Congress, is subject to the Fifth
8 Amendment.

9 Afterwards, in the cases of *Blanchette* and the case
10 of *Security Industrial Bank*, the Supreme Court reaffirmed
11 *Radford*. And more recently, in the case of *In re City of*
12 *Detroit*, the Judge stated that *Blanchette* and *Radford*
13 established that bankruptcy proceedings are subject to the
14 Fifth Amendment; there is a prohibition of public takings of
15 private property without just compensation.

16 The way that the Disclosure Statement is currently
17 written is tantamount of taking without just compensation,
18 and, as such, it remains unconfirmable. The Court should use
19 --

20 THE COURT: Do you have -- I'm sorry. I want to ask
21 you if you have a comment on the *Cobb v. City of Stockton* 9th
22 Circuit decision from 2018 that has been cited by the
23 Oversight Board, which makes a distinction between a Takings
24 Clause, where there is still some right in the property, and a
25 Takings Clause claim that has been reduced to or consists of a

1 claim for money holding that the money claim can be adjusted.

2 MR. CARRION BARALT: Our view of the case of *Cobb* is
3 that this is differential to the case facts. *Cobb* was decided
4 by a slim majority of two to one on procedural grounds,
5 equitable mootness --

6 (Sound played.)

7 MR. CARRION BARALT: -- because a person on a
8 particular case had allowed too much time to lapse and lost
9 his cause of action under California law. And there is a case
10 we understand has the correct arguments, and it addresses Your
11 Honor's concerns regarding the particulars of the way in which
12 that case was presented.

13 It is something that is the only precedent, and it is
14 contrary to what has been decided in other cases, particularly
15 in the case of *Detroit*, whereas, you know, no such distinction
16 was made, and in our opinion, all eminent domain claims, be
17 them by inverse condemnation or direct quick take provisions,
18 they are all, you know, subject to the Fifth Amendment and the
19 full, just compensation should be paid.

20 Most probably, sister counsel Fullana or Eduardo
21 Capdevila will talk in a little more detail regarding that
22 later, but our position is that *Cobb* was wrongly decided, and
23 the dissent should have been the majority opinion.

24 Did I answer your question, Your Honor?

25 THE COURT: Yes, you did.

1 MR. CARRION BARALT: Okay.

2 THE COURT: And you may continue.

3 MR. CARRION BARALT: Again, the way the Disclosure
4 Statement is written is tantamount to a taking without just
5 compensation. We ask the Court to use its powers under 11
6 U.S. Code section 944 to order the non-dischargability and
7 non-impairment of these claims.

8 Subject to your questions, that's my presentation.

9 THE COURT: Thank you very much. I have no further
10 questions for you.

11 So we will turn to counsel for Finca Matilda.

12 MR. CAPDEVILA DIAZ: Good morning, Your Honor. For
13 the record, Eduardo Capdevila on behalf of Finca Matilda.

14 THE COURT: Good morning, Mr. Capdevila.

15 MR. CAPDEVILA DIAZ: Yes. Before I start my
16 presentation, I would like to thank counsel for Amador --
17 Alexis Amador, Inc., and the other counsel, the other eminent
18 domain claimant that yielded its minutes so that we could use
19 our panel time allocation more efficiently. So I just wanted
20 to make clear on the record that they did not waive their
21 right. They just yielded their minutes, so I could prosecute
22 like common issues more expediently and use the Court time
23 more -- not be repetitive.

24 THE COURT: I appreciate that. So what we'll do is
25 start your six minutes now.

1 MR. CAPDEVILA DIAZ: Okay. First, we would like to
2 address the same -- the question that the Court made to
3 Counsel Carrion, the issue that -- the *Cobb* issue.

4 THE COURT: Yes.

5 MR. CAPDEVILA DIAZ: Like Counsel Carrion said, it
6 was wrongly -- first, it was decided on a procedural matter,
7 equitable mootness. That is not the case here, at least for
8 *Finca Matilde*.

9 Secondly, the *Cobb* case was decided right before the
10 *Knick v. Township of Scott* was decided by the Supreme Court as
11 recently as 2019. In the *Knick* case, the Supreme Court stated
12 that claimant's right to just compensation is irrevocable, and
13 it's not subject to any post-petition remedy which state law
14 may provide.

15 So the fact that it is reduced to -- an award for
16 just compensation is reduced to a monetary award does not mean
17 that it is dischargeable or that it can be otherwise impaired
18 like a contractual claim.

19 THE COURT: So may I ask you, so you don't read *Knick*
20 as going primarily to when a takings claim accrues? You read
21 *Knick* as defining an irreducible, unchangeable quantum of a
22 takings claim as of the time of the taking of the property?

23 MR. CAPDEVILA DIAZ: Well, I think that *Knick*
24 encompasses much more than when does it accrue. It also
25 encompasses as to can it be modified, because when *Knick*

1 reached the Supreme Court, there was the *Williams* case that
2 sometimes impaired Takings claimants from going to Federal
3 Court because of post -- post-taking remedies in state court.

4 And the *Knicks* case makes it clear that it doesn't
5 matter post remedy -- what post-taking remedy those creditors
6 have. It is still irrevocable, and they still have a claim
7 that cannot be revoked or otherwise changed. That's our
8 reading.

9 THE COURT: Thank you for making that clear.

10 MR. CAPDEVILA DIAZ: Does that answer your question?

11 THE COURT: Yes, it does. Thank you.

12 MR. CAPDEVILA DIAZ: For example, the Board also
13 alleges, in bankruptcy court, Section 1983 claims can be
14 modified. But takings under the Fifth Amendment are not just
15 any Constitution -- it's not a claim for a violation of a
16 Constitution -- it is a just remedy award. For example, if we
17 compare a violation to the First Amendment, let's say the
18 government violated a First Amendment right, in lieu of that
19 violation, creditors have a right to seek damages. But the
20 First Amendment, nor the Second Amendment, nor the Fourth
21 Amendment provide a condition. It just gives a command to the
22 Congress that you cannot enact law to forbid free speech or
23 association.

24 The Fifth Amendment gives the right and the remedy.
25 The Fifth Amendment states that no taking will be made without

1 just compensation. Just compensation is precisely the
2 constitutional right the taking claimants are seeking. To
3 confirm -- to confirm a plan, or to even go proceed to
4 confirmation with a plan that specifically seeks to impair
5 that just compensation will never be legal in our position,
6 because the just compensation is part of the Constitution.

7 Now, that --

8 (Sound played.)

9 MR. CAPDEVILA DIAZ: That was one of the issues we
10 presented. The other issue we presented is the classification
11 issue. The Third, Fourth, and Fifth Amendment seek to make an
12 artificial distinction between direct taking claims and
13 indirect takings or direct takings. Yet it does not establish
14 or disclose why such distinction is made, because the legal
15 foundation of both takings is exactly the same, the Fifth
16 Amendment.

17 So the fact that circumstantially or factually
18 speaking, direct and indirect takings can -- are different, is
19 not a reason to make a different classification for
20 distribution purposes under the PROMESA or the Bankruptcy
21 Code. And why are we raising those issues in the Disclosure
22 Statement? Because that makes the Disclosure Statement
23 patently unfeasible.

24 If we go through the hurdle of approving the
25 Disclosure Statement, then waiting for the confirmation

1 hearing so that these issues can be resolved, then that would
2 lead us back to the Disclosure Statement.

3 The actual Disclosure Statement has taken the Board
4 four years. Of course, this is a big case, and lots of
5 credit, and it's a complex case. That is why these issues
6 need to be addressed at disclosure statement.

7 And unless the Court has any other questions, that
8 will be our presentation.

9 THE COURT: Thank you very much, Mr. Capdevila.

10 I will now turn to counsel for Suiza Dairy.

11 MR. GONZALEZ VALIENTE: Yes. Good morning, Your
12 Honor. Attorney Rafael Gonzalez Valiente for the record in
13 representation of Suiza Dairy, Inc.

14 THE COURT: Good morning, Mr. Gonzalez.

15 MR. GONZALEZ VALIENTE: Can you hear me?

16 THE COURT: Yes, I can.

17 MR. GONZALEZ VALIENTE: Yes. Thank you.

18 As I said, good morning. First, I would like to ask
19 the Court to admit into evidence our exhibits which were
20 submitted in accordance with the Court's Order, as can be
21 found at docket 17213 and 17210. They show the constitutional
22 nature of Suiza's claim as a regulatory taking by the
23 Commonwealth of Puerto Rico.

24 THE COURT: I will consider those exhibits as part of
25 your --

1 MR. GONZALEZ VALIENTE: Thank you, Your Honor.

2 THE COURT: Thank you.

3 MR. GONZALEZ VALIENTE: For a disclosure statement to
4 be approved, it needs to provide not only sufficient
5 information for an average trader to be informed, to be in a
6 position to vote on the Plan of Adjustment, but it also needs
7 to provide accurate information.

8 As amply discussed already, if a plan is patently
9 unconfirmable for whatever reason, the disclosure statement
10 should not be approved. There are multiple objections to the
11 approval of the Disclosure Statement and a myriad of issues.
12 Our objection, like the two preceding parties before us, is
13 for the fact that the plan is trying to impair Suiza's
14 constitutional claim for a regulatory taking. It cannot do
15 that.

16 The proponents argue that the Disclosure Statement
17 provides sufficient information, and that it should be
18 approved, in an attempt to punt all objections to the
19 confirmation stage. Although we admit that some issues
20 conceivably could be addressed at confirmation, the problem is
21 two-fold. Not all objections that are raised are to the
22 adequacy of the plan. And, two, and this is the important
23 one, the sheer number of objections which do go to the
24 adequacy of the plan of adjustment. And let me explain.

25 If the only confirmation issues, quote, unquote, were

1 dischargeable of the daily producers claims, then the plan
2 proponent's argument could possibly prevail. But that's not
3 the situation here. There are a very substantial number of
4 objections to the treatment of claims: How much the claims
5 are going to be paid; classification of those claims; the
6 dischargeability of claims; and that's in addition to other
7 objections as to general lack of information or the releases.

8 It is that large number of objections that makes the
9 Disclosure Statement deficient. It does not provide
10 sufficient, correct information on the Plan of Adjustment and
11 the treatment of plans for the -- for it to meet the adequacy
12 of information standard.

13 The Plan -- the Plan does not even provide
14 information of what does a --

15 (Sound played.)

16 MR. GONZALEZ VALIENTE: -- information of the plan
17 are, or what would happen if those objections are granted, or
18 how the plan would be feasible if those objections are
19 granted.

20 For example, if the -- if all the takings claims have
21 to be paid a hundred percent, is the plan feasible? Would
22 other classes be impaired in as much they would receive
23 substantially less amount of money?

24 Those are questions that have to be answered now, not
25 in confirmation, because if not, the Disclosure Statement

1 simply does not provide sufficient information.

2 As to Suiza Dairy's specific claim, the objection is
3 simple. Its claim's protected by the Takings Clause of the
4 Constitution. As brother counsel stated, it may not be
5 impaired. The Plan proponents say that it can be impaired and
6 compared to Section 1983 claims. We agree with the conclusion
7 that 1983 claims may not be -- may be impaired because they
8 are created by law.

9 On the other hand, takings claims may not be
10 impaired. The Constitution itself indicates that the
11 government needs to provide just compensation for the taking.
12 It simply cannot confirm a plan that states takings claims may
13 be impaired, Your Honor.

14 If you have any questions, Your Honor? If not, that
15 would conclude my presentation.

16 THE COURT: Thank you very much, Mr. Gonzalez
17 Valiente.

18 The next person I have on my list is counsel for VTM.

19 MS. MARCARI: Good morning, Your Honor. This is
20 Wendy Marcari. Can you hear me?

21 THE COURT: Yes. Good morning.

22 MS. MARCARI: Thank you. For the record, Wendy
23 Marcari of Epstein Becker & Green, together with my
24 co-counsel, Gerardo Carlo-Altieri, on behalf of Vaquería Tres
25 Monjitas, Inc., which you did and I will refer to as VTM.

1 A moment of context, Your Honor. VTM and Suiza
2 Dairy, who you just heard from, are the only two fresh milk
3 processing plants in Puerto Rico. The dairy industry in
4 Puerto Rico was highly regulated. It is essential to the
5 Puerto Rican economy and to the health and well-being of its
6 citizens.

7 We heard today, and we know that the Fifth Amended
8 Plan includes many negotiated settlements with the Oversight
9 Board and AAFAF. And VTM similarly hopes to reach a
10 consensual resolution of the treatment of its claim. We have
11 initiated those discussions, and we hope to continue them and
12 come up with a negotiated resolution, but as of today, there
13 is no such resolution.

14 And, therefore, our objection, similar to the
15 objection of Suiza and the eminent domain creditors that
16 you've just heard from, is that the Disclosure Statement is
17 deficient, because it provides that the claims are
18 dischargeable. But in this case, the claim of VTM arises from
19 a regulatory taking in violation of the Constitution, which is
20 not dischargeable. So the Disclosure Statement, it contains
21 inadequate information. The Plan is not confirmable, and it
22 should not be approved.

23 We also note that the amount of the claim of VTM,
24 which was approximately 20 million dollars as of the petition
25 date, is reflected in the Disclosure Statement as 17 million.

1 The Oversight Board in its reply says that the
2 dischargeability issue is not an impediment to confirmation
3 because they, by amendment to the Plan, or the Court, can
4 simply accept those claims from discharge. We disagree. We
5 think that's a demonstration that the Plan itself is not
6 confirmable, it is patently unconfirmable.

7 And as the other counsel have said, there's been no
8 showing that the Plan would be feasible if it was amended to
9 make these nondischargeable claims nondischargeable -- or to
10 provide for payment in full of those claims. And so for those
11 reasons, VTM submits that the Disclosure Statement does not
12 contain adequate information for creditor -- creditors to make
13 an informed decision regarding their vote on the plan.

14 And I'd like, if possible, to reserve whatever
15 remaining time we have for VTM, to the extent that other
16 objections or concerns are raised that relate to the treatment
17 of VTM's claim under the plan.

18 THE COURT: I am not precisely sure how much time
19 that would be, but I hear you. So thank you very much.

20 MS. MARCARI: Thank you.

21 THE COURT: So next is Altair Global Credit by
22 Mr. Rosenblum for two minutes.

23 MR. ROSENBLUM: Thank you. Benjamin Rosenblum from
24 Jones Day on behalf of certain GO bondholders.

25 Good morning, Your Honor.

1 THE COURT: Good morning.

2 MR. ROSENBLUM: One thing I believe we've resolved,
3 our issues with the Oversight Board with the ERS stipulation,
4 which is appended to the Disclosure Statement. We did file a
5 reservation of rights with respect to the Disclosure
6 Statement. We also wanted to note that we were seeking
7 certain clarifications from the Oversight Board. Through
8 subsequent drafts of the Disclosure Statement, those issues
9 have generally been addressed.

10 We do have some items in the Plan that I think we are
11 still seeking to have addressed with respect to consistency
12 between the Plan and the ERS stipulation. I anticipate those
13 issues will get cleared up. And they do not pose an
14 impediment for the work for today. But I did want to note for
15 the record just to make clear that we aren't intending to
16 waive anything with respect to plan issues, if any.

17 So for clarity, we do not object to approval of the
18 Disclosure Statement, and reserve for another day on any plan
19 issues that may arise.

20 Thank you, Your Honor.

21 THE COURT: Thank you very much.

22 And next on my list is the Retiree Committee for
23 three minutes. Mr. Gordon, are you there? Remember to unmute
24 on both your phone and the Court Solutions dashboard, please.

25 Mr. Gordon? I still can't hear you.

1 Ms. Ng, is Mr. Gordon showing on the dashboard?

2 MS. NG: I just unmuted him.

3 Mr. Gordon?

4 MR. GORDON: Yes. Can you hear me?

5 THE COURT: Oh, yes. Very good. I can hear you now.

6 MR. GORDON: I'm sorry, Your Honor. My computer went
7 dark at the wrong time here essentially.

8 THE COURT: I hate it with when that happens.

9 MR. GORDON: I hate it even more, I guess. So I
10 apologize. Your Honor, Robert Gordon of Jenner & Block on
11 behalf of the Official Retiree Committee.

12 Your Honor, in our limited response filed on June 15,
13 the Retiree Committee articulated certain concerns that
14 pertain specifically to the Disclosure Statement and plan that
15 we believe needed to be addressed at this juncture in the
16 process, and then other concerns that pertain more
17 specifically to the plan solicitation procedures.

18 We are slotted in the Agenda to address the Court
19 under the Disclosure Statement section and not the
20 solicitation procedures section. So if it please the Court,
21 we will address both sets of issues, and the resolutions we
22 have reached with the debtors at this time on all of that, if
23 that's okay.

24 THE COURT: That's fine.

25 MR. GORDON: Thank you.

1 We have been working through the Retiree Committee's
2 concerns with the debtor's counsel and advisors for the better
3 part of two months, and we thank them for the collaboration in
4 resolving these matters on a consensual basis.

5 The first issue of concern, Your Honor, is a proposed
6 classification of retiree claims. The Third Amended Plan
7 contemplated all retirees being lumped into one massive class,
8 including retirees who participated in each of the three
9 retirement systems, and retirees whose monthly retirement
10 benefits are above and below the monthly benefit threshold for
11 experiencing any benefit reductions.

12 We disagreed with this classification scheme on
13 several grounds. The primary concern was to ensure that each
14 distinct class of retirees was not diluted --

15 (Sound played.)

16 MR. GORDON: -- and deprived of their voting voice by
17 being lumped in with other retirees. For example, the retired
18 judges are less than 500 in number, compared to more than
19 40,000 teacher retirees who participated in the TRS system and
20 125 who are ERS retirees.

21 Also, of the TRS and ERS retirees, approximately
22 120,000 combined are not supposed to receive any reduction to
23 the retiree benefits, and as such, they are not impaired and
24 should not be required to vote, and should not vote in a
25 combined class with those who are impaired.

1 So we agreed to organize these claims into six
2 classes, a line on ERS, GRS and TRS line, and then above and
3 below the threshold. And, again, we thank the debtors for
4 their cooperation in resolving this very important issue.

5 The other category of primary concerns of the Retiree
6 Committee arises from the fact that both the sheer amount of
7 information in the Disclosure Statement and Plan and other
8 documents that compose the solicitation package, and in some
9 cases how that information is presented has a potential to
10 confuse and frustrate retirees. They likely have no previous
11 experience with the bankruptcy system at all, much less this
12 case and complexity.

13 These charges are quite unique to our constituents
14 and require special attention. Consequently, many retiree
15 committees requested modification to simplify for the retirees
16 the information of how the Plan is supposed to modify retiree
17 benefits and how to access the voting process.

18 These changes will help ensure that those retirees
19 entitled to vote understand the process and are able to submit
20 a proper and timely ballot. Again, we are pleased to report
21 resolution of those matters.

22 First, the debtor has agreed to issue a very simple
23 and straightforward notice of nonvoting status to all retirees
24 in the ERS below threshold classes. This is very important.
25 Our Plan Support Agreement protects 74 percent of all current

1 retirees in any reductions in the retirement benefits, but
2 there appears to be much confusion in the retiree community
3 regarding this. This notice will provide clarity and comfort
4 --

5 (Sound played.)

6 MR. GORDON: Recently again -- Your Honor, I
7 apologize. I believe the clock started before I even got
8 started here. May I have a few seconds more to finish my
9 comments?

10 THE COURT: Yes. Yes.

11 MR. GORDON: Thank you so much.

12 So the debtors also agreed to include in the
13 solicitation packages to holders of retiree claims a plan
14 support letter and a plan information sheet prepared by the
15 Retiree Committee. And we ask the Court to approve the form
16 of these documents pursuant to Section 1125(d) of the
17 Bankruptcy Code as made applicable by PROMESA.

18 The plan support letter explains in a very clear,
19 concise, and accessible manner how the Plan proposes to treat
20 retiree claims, why the Retiree Committee supports the Plan,
21 and provides retirees with an overview of the voting process.
22 The information sheet provides similar information in a
23 one-page document, front and back, that relies heavily on
24 graphics to provide both visual and textual explanations that,
25 again, are very accessible.

1 The Retiree Committee felt it was very important also
2 to have the ballot be just one page and devoid of any
3 unnecessary and, frankly, intimidating legalese. Working with
4 the debtor, the Retiree Committee has achieved a form of
5 ballot that meets our requirements. We have also reached
6 agreement on a form of voting instructions for retirees.

7 We submit that these documents, along with the plan
8 support letter and information sheet, are extremely important
9 to encouraging and facilitating retiree participation in the
10 plan voting process. The debtor has generally agreed to
11 revise voting and confirmation notice publication dates to
12 being strategically scheduled during the voting period of the
13 Plan, and to provide more radio spots, as requested by our
14 communications advisors.

15 The Retiree Committee was also concerned that the
16 original proposed set of drop-off sites for hand delivery of
17 ballots was not sufficiently comprehensive to ensure a
18 reasonably convenient location for retirees across Puerto
19 Rico. Working with the debtor and specifically Prime Clerk,
20 Prime Clerk has identified two additional sites, one each in
21 Arecibo and Fajardo. With these additional sites, our
22 concerns in this regard are resolved.

23 Two other last points, Your Honor. The plan
24 solicitation procedures motion contemplated giving equal
25 weight to all retiree claims. We believe it's being proposed

1 out of a concern for logistical challenges in calculating the
2 amount of each retiree claim. However, we were concerned that
3 to not provide a weighted vote based on the size of each claim
4 would not be consistent with the provisions of the Bankruptcy
5 Code.

6 In conversations between the advisors of the Retiree
7 Committee and the debtor, including the actuaries, we were
8 able to resolve the issue in this regard. So now ballots will
9 be tabulated on a proper weighted basis, based on the largest
10 size of retiree's monthly pension benefit.

11 Consistent with our plan support agreement and our
12 duties to our retiree constituents, the Retiree Committee
13 intends to also disseminate information to retirees through
14 various methods that include the Retiree Committee's website,
15 social media, direct mailings, radio and printed media, phone
16 banks, and in-person meetings to explain the voting process,
17 et cetera.

18 And we have asked that that process, those
19 activities, also be generally approved under Section 1125(d),
20 and the debtor has kindly amended the order to address this.
21 There are obviously new issues that may arise as a result of
22 the Fifth Amended Plan that was just filed yesterday, and we
23 have not yet been able to digest that. And we reserve our
24 rights with respect to such issues.

25 With that, Your Honor, the Retiree Committee's issues

1 have been addressed and resolved at this juncture. Thank you
2 for your time.

3 THE COURT: Thank you, Mr. Gordon.

4 So there's -- I'm hearing an echo of my own voice
5 now. So maybe whoever's not muted could mute.

6 So the Agenda is set up to anticipate that we would
7 have reached the pro se objectors at this point. They have
8 been instructed to come and be ready for two o'clock.

9 So what I will do is skip over them, and return to
10 them immediately after the lunch break, but go on with other
11 arguments for now. So I'm going to turn to the supporting
12 party statements, the first of which would be for Assured.

13 MR. NATBONY: Thank you, Your Honor. This is William
14 Natbony from Cadwalader Wickersham & Taft on behalf of
15 Assured. Can you hear me all right?

16 THE COURT: Yes, I can, and good morning.

17 MR. NATBONY: Good morning. Thank you very much.

18 So Assured wishes to speak briefly this morning
19 primarily to confirm the appropriate scope of this hearing as
20 relates to certain issues that were raised by the DRA parties
21 in their written disclosure statement objection.

22 As the Court knows, the DRA parties take certain
23 substantive positions with respect to their purported priority
24 and claim to certain HTA revenues. The monolines, including
25 Assured, disagree with the DRA parties, and assert that their

1 positions have no merit, as the DRA parties are subordinated
2 under the relative loan documents.

3 Yet, Assured and the DRA parties do agree on one
4 thing, that this hearing is not the appropriate time or place
5 to address those priority arguments. And we have accepted,
6 prior to this hearing, the DRA parties' commitment not to
7 argue these matters to the Court today for determination.

8 We've also agreed that the gating standing issues
9 that were raised in our written submission are more
10 appropriately addressed as part of confirmation. This Court
11 previously recognized in the context of the COFINA proceedings
12 that with respect to approval of a disclosure statement, the
13 issues are, quote, "simply whether the proposed disclosure
14 statement, as amended, provides information sufficient to
15 permit a hypothetical creditor or investor to make an informed
16 judgment about the proposed plan."

17 Thus, it is our view that objections related to the
18 legality of plan provisions or the economic treatment of
19 creditors under the plan would not properly be before this
20 Court for this hearing. The DRA parties' priority arguments
21 do not fall within that limited purpose, and, thus, both the
22 DRA parties and Assured are requesting that the Court not
23 reach those priority issues as part of this limited hearing.

24 I should note that the DRA parties and Assured do
25 disagree about with what mechanism, outside this hearing, the

1 priority subordination issues should be addressed. And while
2 that issue is not before Your Honor today, we do believe the
3 DRA parties' recently filed adversary proceeding raising those
4 issues is subject to being stayed under Your Honor's March 10,
5 2020, order following mediation, and, in any event,
6 dismissible on its face. We believe the priority issues can
7 and should be addressed as part of confirmation.

8 In addition to the priority issues, the DRA parties
9 raise a number of additional arguments that are labeled by
10 them as Disclosure Statement objections, when in reality some
11 of those arguments address the economics or reasonableness of
12 the HTA, CCDA, PSA, or the Plan, which we expect will be
13 subject to future confirmation proceedings.

14 As with the priority issues, Assured believes these
15 issues are more appropriately addressed in the context of
16 confirmation and the corresponding factual and legal review of
17 the Plan. And, indeed, in its Omnibus Response, which is at
18 docket 17187 in Exhibit A, the Board has indicated its
19 intention and ability to address and rebut each of these in
20 the other DRA raised arguments as part of the confirmation
21 process. So Assured joins the Board's view that such
22 arguments can and should be addressed as part of the
23 confirmation process.

24 Unless the Court has further questions, Assured would
25 yield the rest of its time to the Board, if possible.

1 THE COURT: Thank you. So we'll turn now to
2 National.

3 MS. DIBLASI: Good morning -- good afternoon, Your
4 Honor. Kelly DiBlasi from Weil Gotshal & Manges on behalf of
5 National Public Finance Guaranty Corporation.

6 National supports --

7 THE COURT: Good morning.

8 MS. DIBLASI: Thank you, Your Honor.

9 National supports approval of the Disclosure
10 Statement. We filed jointly with Assured a response to the
11 objections raised by the DRA parties. In this regard,
12 National joins and supports the comments made this afternoon
13 by Mr. Natbony on behalf of Assured, as well as the filed and
14 to be argued responses to the DRA parties by the Oversight
15 Board.

16 The DRA parties raise issues to be addressed at
17 confirmation, none of which we think have merit, and none of
18 which warrant denial of approval of the Disclosure Statement.

19 Unless the Court has questions, I have nothing
20 further, and would yield the remainder of my time to the
21 Oversight Board's counsel.

22 Thank you, Your Honor.

23 THE COURT: Thank you, Ms. DiBlasi.

24 I have been informed that Mr. Hein, who is one of the
25 pro se objectors, is on the line present now. So if Mr. Hein

1 would like to proceed at this point, I would invite him to
2 unmute and say so. We have allotted him eight minutes.

3 MR. HEIN: Yes, Your Honor. Peter Hein. Can you
4 hear me?

5 THE COURT: Yes, I can. Good afternoon, Mr. Hein.

6 MR. HEIN: Thank you. I will address several key
7 disclosure points focusing on information that was not
8 available before the June 15 deadline for objections as not
9 discussed in my --

10 (Whereupon the San Juan courtroom was disconnected
11 from the hearing.)

12 (Whereupon the San Juan courtroom reconnected to the
13 hearing.)

14 COURT REPORTER: The last I heard was Mr. Hein
15 saying, "I will address several key disclosure points focusing
16 on the information that was not available before the June 15
17 deadline for objections as --" and then we were dropped from
18 the hearing, Your Honor.

19 THE COURT: Very good. So welcome back, San Juan.
20 Thank you, Ms. Wallace.

21 And, Mr. Hein, we've reset your time to zero. So if
22 you will begin after that introductory portion of your
23 remarks, we're ready.

24 MR. HEIN: Thank you.

25 So virtually none of the disclosure deficiencies I've

1 raised have been addressed, including not in what was filed
2 last night. I continue to press my objections in docket no.
3 16908, 16977, but there was one limited change that the
4 Oversight Board did make.

5 My objection noted that the exhibit to the Disclosure
6 Statement that was supposed to show the particulars of what
7 bondholders would receive, such as maturities, principal
8 amounts, and interest rates did not have that information.

9 The Oversight Board has acknowledged an error.
10 They've added a cross-reference to Exhibit I to the Plan, but
11 even Exhibit I to the Plan does not provide all of the
12 information that needs to be disclosed.

13 There is still no straightforward disclosure in the
14 Disclosure Statement itself, or even Exhibit I, that
15 individual investors will be getting bits and pieces of at
16 least 13 different splintered fragments for every single
17 position they currently own.

18 In my case, for example, I'd be getting 78 splintered
19 fragments, and still no disclosure anywhere of what securities
20 will be issued in the 13 or more fragments that shows a
21 breakdown of the par amount coupon and maturity for a
22 hypothetical bondholder with, say, a 100,000 par position or
23 some other round number.

24 My objection provided a form of chart that could
25 easily have been prepared and included in the Disclosure

1 Statement of that set docket 16908, page 26 of 178. The
2 specifics concerning the 13 or more fragments is highly
3 material to individual investors. The proposed exchange in 13
4 splintered fragments for every single position destroys
5 marketability for individual investors, creates an accounting
6 and tax nightmare.

7 Also, in scanning the sections concerning what
8 bondholders will receive and what was filed last night, I see
9 new mistakes. The July 12 Disclosure Statement, docket 17308
10 in the middle of page 46 of 615, refers to plan section 74.1
11 through 74.4 in a discussion of what may happen depending upon
12 future IRS or bond consult determinations.

13 But when one turns to those sections of the Plan, one
14 finds provisions relating to the time and manner of
15 distribution, provisions that do not appear to have anything
16 to do with the discussion in the Disclosure Statement on page
17 46 of 615.

18 Second, there's no disclosure of whether all new
19 general obligation bonds issued will be tax exempt and, if
20 not, why not. The Disclosure Statement provides no
21 information regarding whether a ruling has been or is being
22 sought from the IRS in -- it's docket 17308, page 575 of 615.
23 The Oversight Board simply says the tax status of the new GO
24 bonds has not been determined as of the date of the Disclosure
25 Statement.

1 Then at page 570 of 615, they say, as of the date of
2 this Disclosure Statement, no ruling has been requested from
3 the Internal Revenue Service as to any aspect of the Plan.
4 Well, the Oversight Board knows if it's been in contact with
5 the IRS or if it plans to be.

6 We should not have a repeat of the COFINA situation
7 where the IRS ruling request was made after the date of the
8 Disclosure Statement, and the information was withheld until
9 after the confirmation hearing until just the eve of the
10 effective date. Disclosure of federal tax consequences is an
11 express statutory requirement of 11 U.S.C. 1125(a).

12 Third, the blatantly revealed 2018 audited financials
13 disclosed two weeks ago, and a cash report disclosed last week
14 revealed that Puerto Rico right now could pay all, all past
15 due interest and principal on its GO and GO guaranteed debt,
16 and still have about four billion left over.

17 I refer Your Honor to note 3-D on page 101 of the
18 2018 financials. It shows that as of May 31, 2021, six weeks
19 ago, the total past due Commonwealth and PBA principal and
20 interest was 6.8 billion. The cash report released last week
21 shows over 11.5 billion in unrestricted cash on hand in the
22 TSA account.

23 When one does the math, as I said, Puerto Rico could
24 pay all past due principal and interest on its constitutional
25 debt today and still have almost four billion left over.

1 These facts need to be in the Disclosure Statement.

2 Fourth, the Plan provides potentially multibillion
3 dollar added payments to public employees in the form of
4 so-called upside participation bonuses and the restoration of
5 pension benefits, even while not paying its constitutional
6 debt. I discuss the specifics in my papers, docket 16908,
7 page 15 to 20 of 178. The provisions in question remain in
8 what was filed last night.

9 The Disclosure Statement needs to disclose what the
10 dollar amount or range of dollar amounts of these payments
11 could be. New information revealed in the last two weeks
12 indicates that when one plugs the numbers into the excess cash
13 flow calculation that's used to calculate these bonuses for
14 public employees and added pension benefits, that the Plan
15 could pay out literally billions of dollars a year for
16 multiple years as bonuses or restored pension payment to
17 public employees and retirees. So item one of new
18 information --

19 (Sound played.)

20 MR. HEIN: -- the belatedly released audited
21 financials, it shows that there was, in 2018, a 3.7 surplus
22 before debt service. This was over one billion more than the
23 Oversight Board had projected back in 2018.

24 Second, we learned last week of the cash flow filing
25 that I mentioned, and it showed a surplus for 2021 of 3.8

1 billion, running 1.7 billion ahead of plan.

2 Third, there was a bipartisan agreement announced
3 last week that Puerto Rico is purportedly going to get like
4 2.6 billion per year more for Medicaid, which is not factored
5 into the latest fiscal plan.

6 There needs to be a forthright disclosure of the
7 potential multibillion dollar added bonus and restoration of
8 pension payments that the Plan provides for, and the specifics
9 of how these calculations are made has to be spelled out.

10 There also needs to be spelled out -- and I've
11 provided proposed charts -- comparative charts that show
12 exactly what the bondholders are owed and what they're
13 receiving, apples to apples. What the public employees and
14 retirees are owed and receiving.

15 And this needs to be factoring in the fact that
16 pensions and payments to public employees have been made
17 regularly throughout this process, whereas not a penny has
18 been paid in principal or interest on the constitutional debt.
19 And there needs to be an apples to apples quantification of
20 this.

21 In addition, the fact that there's potentially
22 billions of dollars going out the door in these potential
23 bonuses to public employees, if you believe the Oversight
24 Board's forecast, while there's going to be cash available the
25 next few years, they are projecting that Puerto Rico will go

1 into a deficit position somewhere between 2026 and 2036 prior
2 to the bonds being repaid.

3 (Sound played.)

4 MR HEIN: So you have a big specter from the
5 bondholder point of view of billions going out the door now
6 with deficits being projected. All of this needs to be
7 candidly disclosed.

8 Again, Your Honor, I have another minute. I ask Your
9 Honor if you'll indulge me or --

10 THE COURT: I need you to wrap up now.

11 MR. HEIN: Okay.

12 THE COURT: You're at eight minutes.

13 MR. HEIN: Yes. The bottom line is there needs to
14 be, and I provided in the objection, the apples to apples
15 comparative disclosures that need to be made.

16 In addition, I have spelled out how not only apples
17 to apples, but the public employees and the retirees, but also
18 apples to apples to those who have the opportunity for the 50
19 state election or the taxable election where Puerto Rico
20 residents can elect just one bond as opposed to 13 fragments,
21 and the comparison with those who get something beyond what
22 other bondholders with the same bonds get.

23 And with that, Your Honor, I thank you for your time,
24 and refer Your Honor to my objections, 16908 and 16977. And I
25 rest on those for my additional points.

1 Thank you, Your Honor.

2 THE COURT: Thank you very much, Mr. Hein.

3 So I have agreed to defer the movants' -- the
4 Oversight Board's -- reply remarks on the Disclosure Statement
5 until after we know whether there will be argument of Ambac's
6 objections.

7 So in the time remaining before the lunch break, I
8 would like to turn to the arguments on objections to the
9 solicitation procedures. So that is item II of the Agenda, I
10 believe, and I -- the Agenda has us starting with the UCC.

11 MR. DESPINS: Good afternoon, Your Honor. Luc
12 Despins with Paul Hastings on behalf of the Committee.

13 Same point, Your Honor, is that we're not pushing our
14 objections given the settlement. I wanted to just say, Your
15 Honor, that we filed this morning an informative motion
16 attaching a proposed letter to be sent to our constituents
17 supporting the Plan.

18 I assume we would handle that tomorrow when I assume
19 you'll have other comments to the Disclosure Statement and all
20 of that, and the orders, and we can address it at that time.
21 So I wanted to make sure that Your Honor had seen that,
22 although it was filed, you know, probably just before the
23 hearing.

24 THE COURT: I did see it when it was filed. So, yes,
25 we will do any necessary clean-up reconciliation of what I'm

1 being asked to approve when we finish up the Disclosure
2 Statement argumentation tomorrow.

3 MR. DESPINS: Thank you, Your Honor. Thank you.

4 THE COURT: Thank you.

5 So next on the list is FGIC. So, Mr. Sosland, do you
6 want to tell me where you are on this?

7 MR. SOSLAND: Yes, Your Honor. I have currently,
8 between the Disclosure Statement and this, I think it's 16
9 minutes total allotted to me, but if Your Honor would indulge
10 this, I would prefer to take care of all of it tomorrow, if we
11 don't have an agreement to announce to you by then.

12 THE COURT: All right. We will save you for
13 tomorrow.

14 So, Mr. Hein, would you like to come back and speak
15 to the solicitation procedure objections?

16 MR. HEIN: Thank you, Your Honor. Peter Hein.

17 My responses on the procedural issues are in docket
18 16909. I'll address several points. First, the absence of a
19 record date and voting procedure provides two concerns.
20 Retail investors are treated differently, to their detriment,
21 from the institutions. I will quote from the Oversight
22 Board's proposed notice of voting instructions. I'm quoting
23 from 16756, page 101 of 346, but looking at what was filed
24 last night, 17309-1, page 52 and 53, it appears the same.

25 Retail investors are told they, quote, will be

1 restricted from transferring your bonds through the effective
2 date, closed quote. Yet, constitutional holders, others bond
3 retail holders, will have their bonds restricted only, quote,
4 until immediately after the voting deadline, closed quote; and
5 that release of their bonds by DTC, quote, is expected to be
6 on or as soon as possible after October 4, 2021, the voting
7 deadline.

8 I made this point in docket 16909, pages 25 to 26 of
9 44, quoting the language of the proposed notice in the FOMB
10 moving papers. The FOMB reply just ignores what their own
11 notice says. There's no explanation by FOMB for why
12 individuals are being treated differently than institutions in
13 this respect.

14 The lockup of the retail investors will likely
15 depress the retail vote, and it's also unfair by locking in
16 retail investors who do vote, dooming them to splinter bonds
17 after the effective date. They don't even have the option to
18 consider selling after the confirmation order issues, if it
19 does, after the vote is in, if it's in. They don't even have
20 the option of selling before the effective date.

21 Also, there effectively is no record date, and you,
22 thus, have the specter of vote buying to skew the results,
23 which can happen right up to the moment on October 4.

24 The second subject, there's no reasonable opportunity
25 for retail investors to submit an initial objection. I just

1 looked quickly at what was filed last night, but they may even
2 still be trying to use the same August 3 date. My actual
3 experience for the time for receipt of mail notice bears on
4 the extent of notice required.

5 Last month I received the direct mailing of an
6 Omnibus Objection from Prime Clerk. It took ten days from the
7 date it was mailed until I got it. And the process of mailing
8 a solicitation packet to beneficial holders at accounts of
9 securities firms, which applies to individual investors, is
10 going to take longer than direct mailing.

11 My actual experience in the COFINA case is, from the
12 time Your Honor issued the Disclosure Statement Order until I
13 received the flash drive with the solicitation packet from
14 Prime Clerk, was 19 days. The Oversight Board says, well --

15 (Sound played.)

16 MR. HEIN: -- we can send out a flash drive and
17 people can request hard copies of the -- now I think it's over
18 25 or 2600 pages of Plan and Disclosure Statement, by
19 e-mailing or calling Prime Clerk.

20 Well, I did that in May in response to the short form
21 notice sent in May, and I did not receive my hard copies until
22 43 days, 43 days after I made my request.

23 Deadlines should reflect how long the process
24 actually takes based on my actual experience. I think that
25 for individual investors to have an adequate opportunity to

1 receive, to review, to prepare an objection, I think one needs
2 at least 75 days before the initial objection deadline.

3 Third point, the FOMB's proposal that the Oversight
4 Board put its papers in support of confirmation in after the
5 final deadline for objections is contrary to any concept of
6 due process or proper procedure.

7 It is fundamentally wrong to say that objectors need
8 to submit final objections, say, on October 8th, but the
9 Oversight Board can put its supporting papers in, as long as
10 its reply papers and affidavits and whatever, three weeks
11 later.

12 There's no justification to say, well, this has been
13 used before. This is a proceeding where there are thousands
14 of unrepresented individual bondholders whose investments are
15 being effected. They need to be able to see the FOMB
16 supporting papers, and have an opportunity to respond to them.

17 A final point related to standing. These issues of
18 adequate disclosure and adequate notice directly effect me,
19 because of the fact there's a voting process here where the
20 vote of others can deprive me of my rights. Plus, candidly,
21 Your Honor, I think that having adequate disclosure for the
22 individual retail investors, and adequate notice to those
23 unrepresented individual retailer investors is clearly the
24 right thing to do under the law in any event.

25 Thank you, Your Honor.

1 (Sound played.)

2 THE COURT: Thank you, Mr. Hein.

3 Do the FOMB representatives want to use some of their
4 time to respond to Mr. Hein's arguments now?

5 MR. ROSEN: Your Honor, this is Brian Rosen. If you
6 don't mind, Your Honor, because some of the issues that have
7 been raised by FGIC and others -- we would like to just
8 reserve it until tomorrow, if that would be fine with the
9 Court.

10 THE COURT: Yes. I will permit you to reserve it to
11 tomorrow.

12 MR. ROSEN: Thank you, Your Honor.

13 THE COURT: So now we still have some time before the
14 lunch break, and so let's begin what arguments we can have
15 today on the confirmation procedures motions. As to that,
16 Magistrate Judge Dein and I are presiding jointly, so you may
17 hear questions from either of us as the arguments go on.

18 So the first party listed as objecting parties are
19 Ambac and FGIC, and so would someone from that coalition tell
20 me whether you want to wait until tomorrow on those?

21 MS. MILLER: Atara Miller from Milbank on behalf of
22 Ambac Assurance, Your Honor. I think it would probably be
23 best to defer in part, because I think some of our objections
24 to the scheduling motion relate largely to the amount of time
25 that would be required to resolve revenue bond related issues,

1 and so since there is a direct link between our objection on
2 the scheduling motion and the substantive motion issues that
3 we have --

4 THE COURT: Understood. All right. So we will
5 reserve your time until tomorrow.

6 MS. MILLER: Thank you, Your Honor.

7 THE COURT: Thank you.

8 Mr. Despins, will you be pressing any of the
9 objections you had raised to the confirmation procedures
10 motion?

11 MR. DESPINS: No, Your Honor. Thank you.

12 THE COURT: Thank you. So that takes us to the DRA
13 parties, and I have five minutes split between AmeriNational
14 Community Services and Cantor-Katz.

15 So would whoever's speaking first unmute and identify
16 himself?

17 MR. ZOUAIRABANI: Yes. Good morning, Your Honor.
18 This is Attorney Nayuan Zouairabani of McConnell Valdes, LLC,
19 on behalf of AmeriNational Community Services, LLC. I am
20 joined by my co-counsel, Douglas Koff of Schulte Roth & Zabel
21 for Cantor-Katz Collateral Monitor, LLC, and together we are
22 the DRA parties.

23 THE COURT: Yes.

24 MR. ZOUAIRABANI: Your Honor, before my clock starts,
25 I would like to mention something, because we learned about it

1 today at the outset of the hearing. We had coordinated coming
2 into argumentation today with counsel for Ambac, especially
3 with regard to their demonstrative exhibit at docket 17279-1.
4 And we believed they were going to cover some of the issues
5 that we did, so we didn't want to be repetitive, so we tweaked
6 our argument in light of that.

7 But since we don't know whether Ambac will be
8 pressing on their objection by tomorrow, I would ask the Court
9 if I could at least get one minute to cover some of the issues
10 that we did not envision speaking on because of how we had
11 divided the arguments.

12 THE COURT: Very well. So let's say that we will
13 afford you seven minutes altogether, so that's two extra
14 minutes, and that will give you three and a half and three and
15 a half, or however you want to split that up. Is that
16 acceptable?

17 MR. ZOUAIRABANI: Yes, Your Honor. That is
18 acceptable. Thank you.

19 THE COURT: Okay. Very good. May I start your clock
20 now?

21 MR. ZOUAIRABANI: Yes, you may. Thank you, Your
22 Honor.

23 THE COURT: Okay. Starting it for three and a half
24 minutes. Please proceed.

25 MR. ZOUAIRABANI: Thank you. All right.

1 Your Honor, I'm sorry. One thing. I will be doing
2 most of the argumentation. I may yield some time to my
3 co-counsel, Douglas Koff, just so the Court is aware.

4 THE COURT: All right. So we'll be counting up to
5 seven minutes, and the beeping will be in relation to seven
6 minutes, with a pause if you switch speakers. Is that
7 acceptable?

8 MR. ZOUAIRABANI: Yes, it is, Your Honor. Thank you
9 so much.

10 THE COURT: Okay. Very good. So now we will start
11 the clock.

12 MR. ZOUAIRABANI: The procedures motion suffers from
13 an overarching deficiency that cannot be easily overcome and
14 cannot be overlooked by this Court. It favors rushed and
15 condensed time frames to meet artificial deadlines at the
16 expense of standard litigation practices.

17 As the Supreme Court stated in *Protective Committee*
18 *v. Anderson*, 390 U.S. 414, at page 450, quote, "the need for
19 expedition is not a justification for abandoning proper
20 standards," unquote. This is particularly true here. With a
21 supposed basis for expedition, FOMB is having to meet
22 milestones and PSAs that were voluntarily agreed between
23 sophisticated parties, all of who are well aware of the proper
24 procedure to confirm a case of this magnitude.

25 As this Court observed in the April 28 Omnibus

1 Hearing, meeting PSA deadlines should not be an appropriate
2 justification for dispensing the due process or short
3 circuiting normal procedures.

4 The procedures motion is ripe with several
5 infirmities that are detailed in our brief and which are also
6 highlighted in Ambac's demonstrative, which the DAR parties
7 also support. In short, the FOMB's proposal is not sufficient
8 for this case, and we, as well as Ambac, outline alternative
9 schedules that are more appropriate and should be adopted
10 here.

11 Among other things, for example, our proposal
12 provides for a time frame to make a Section 1111(b) election,
13 which is nowhere to be found. And we refer the Court to our
14 brief for the DRA specific proposal just at that example. And
15 we also refer the Court to docket 17279-1, to view Ambac's
16 proposal.

17 I would like to focus, Your Honor, for a second on
18 the exemplar cases identified by the FOMB, all of which weigh
19 in favor of the DRA parties' position. These are *In re*
20 *Cumulus Media, Inc.*, *In re Maximum Energy Corp.*, *In re EnRon*
21 *Corp.*, and *In re City of Detroit, Michigan*.

22 The most analogous of this case is the chapter
23 municipal bankruptcy of Detroit. Still, that case involved
24 approximately 18 billion of total obligation, and was
25 materially smaller to these cases, which is the largest

1 municipal bankruptcy ever, with 120 billion in total
2 obligations.

3 Notwithstanding this, Detroit's procedure was also
4 more favorable than FOMB's proposal. To-wit, it separated
5 fact and expert witness deposition periods with no overlap.
6 It also allowed for fact witness deposition period of 43 days,
7 and a subsequent expert witness deposition period of 29 days.
8 In contrast, the FOMB proposes a combined 22 days for all fact
9 and expert depositions.

10 In Detroit, the Court planned for a 29-day
11 confirmation trial, whereas the FOMB proposes just seven days
12 for confirmation of a case of this magnitude.

13 The other cases cited by the FOMB are Chapter 11
14 bankruptcies of single corporations, which despite being
15 smaller than Detroit, still provided for more favorable and
16 reasonable discovery deadlines and procedure than FOMB's
17 proposal, including, among others, one document depository
18 that was populated, quote, on or before, quote, a specific
19 date, as opposed to FOMB's proposal that the document
20 depository be populated at some point, quote, on or after, end
21 quote, July 13, 2021.

22 Your Honor, who knows when that after might be. We
23 could be even at the eve of confirmation. We don't know.
24 It's too expansive.

25 Second, separate fact and expert discovery, with no

1 | overlap. Three, there's other Chapter 11 cases provided for
2 | nondeadline to serve request for admissions to authenticate
3 | documents.

4 | Four, depositions which span at least eight hours,
5 | whereas here they only propose up to seven hours. Five,
6 | additional deposition period for supplemental witnesses. Six,
7 | creditors' witness list, which were due a month after debtors'
8 | initial witness list.

9 | Seven, the right to supplement fact witness list
10 | prior to trial, and to call rebuttal witnesses not previously
11 | identified on the list. Eight, fact discovery period of about
12 | two months, an expert discovery period of almost three weeks,
13 | and plan objections which were not due until after discovery
14 | ended.

15 | Your Honor, the procedures motion is clearly
16 | prejudicial to the DRA parties who have not taken any
17 | discovery in these cases and who, after four years, deserve an
18 | opportunity to fully vet their claims, including flushing out
19 | the sub rosa issues that were discussed by my co-counsel but
20 | was meant -- earlier this morning. It is for this reason why
21 | FOMB's initial objection framework also fails.

22 | By limiting the scope of a party's discovery rights
23 | to what was included in their initial objections only, and
24 | bear in mind that this initial objection is due prior to
25 | anyone receiving affirmative discovery --

1 (Sound played.)

2 MR. ZOUAIRABANI: -- the FOMB is forcing parties to
3 flood the Court with overly broad initial objections to avoid
4 waiving any potential arguments or rights. That is simply too
5 much wasted paper.

6 The FOMB has failed to explain why parties to a case
7 that is six times larger than Detroit, and a population that
8 is four times greater, should receive lesser treatment.
9 Rather, the opposite should be true. Because these cases
10 arise under a noble statutory regime, it directly affects the
11 rights of millions of U.S. citizens, and involves numerous
12 complex and novel issues of law.

13 It follows that the discovery and plan confirmation
14 process should be at least as, if not more, expansive than
15 what took place in the FOMB's cited cases. In the end, the
16 FOMB's proposal hampers fairness for all parties, except the
17 debtors and the PSA parties.

18 And with that, Your Honor, I yield my time to my
19 co-counsel, Douglas Koff, in case he wants to make any
20 additional statement.

21 THE COURT: Thank you.

22 Mr. Koff.

23 MR. KOFF: Good afternoon, Your Honor. We'll rely on
24 the arguments just made and our papers submitted. I think our
25 time is up as well.

1 THE COURT: Almost. Thank you very much, Mr. Koff.

2 So now, Mr. Hein, would you like to come back and
3 make your arguments on the procedures motion?

4 MR. HEIN: Yes, Your Honor. Thank you.

5 Two areas that I will briefly address. Again, I
6 refer Your Honor to my objection on procedural issues, 16909
7 in the docket. First, on interrogatories. The notion that
8 because there's a data room, interrogatories should be
9 prohibited ignores the reality, particularly from the point of
10 view of unrepresented individuals, that the data room is a
11 jumble of documents in broad categories.

12 I've tried to use it. It's extremely difficult for
13 any individual to use. There's no way an individual can use
14 that data room to find an answer to a specific question.

15 If interrogatories are propounded and the Oversight
16 Board thinks one has been answered or is answered by a
17 document, the FOMB can point to the source of the answer.
18 They could also set up a category in the data room for
19 interrogatory responses.

20 So let's say answering a particular interrogatory,
21 the response is on file, and someone can consult that before
22 propounding additional interrogatories. That is a way to
23 duplicate -- or avoid duplication of responses.

24 Let me give you an example of an interrogatory.

25 (Sound played.)

1 MR. HEIN: State the annual amount of the 1.03
2 percentage tax on property, and its billings and collections
3 for each of the past five years. This tax is the first source
4 of payment of the new bonds. It secures the existing bonds.
5 Surely Puerto Rico has this information.

6 It should be in the Disclosure Statement. It's not.
7 It should at least be something one can get through an
8 interrogatory. And, as I said, interrogatories are probably
9 the only practical means unrepresented individuals without a
10 committee have to participate in discovery here.

11 Second subject: There's no legitimate reason for a
12 certification requirement. The data room is just a jumble of
13 documents and broad categories. Take my example of the
14 question of how much has been billed and collected each year
15 for the 1.03 percent property tax.

16 There's no apparent data room category linked to it,
17 and, therefore, it's just impossible to wade through what is
18 literally a jumble of documents in broad categories to find
19 the answer to that question, if it even exists in that data
20 room.

21 Third, the FOMB continues to place materials in the
22 confidential section of the data room that cannot plausibly be
23 entitled to confidential treatment. I identified specific
24 examples of publicly released documents placed in the
25 confidential categories of the data room in my June 9 papers

1 of a -- as of Sunday night, they were still in the
2 confidential section.

3 Another example, on June 27, FOMB placed in the
4 confidential folders of the data room in a category for
5 documents disclosed to the UCC a document that appears
6 identical to a document that AAFAF publicly disclosed two days
7 before on EMMA, which was then on EMMA described as FOMB's
8 public disclosure of claim amounts and corresponding
9 outstanding principal amount.

10 The document posted on EMMA --

11 (Sound played.)

12 MR. HEIN: -- and called a public disclosure cannot
13 legitimately be claimed confidential, but was. I've noted
14 other inappropriate classification issues in my July 6 papers
15 on the retail investor committee motion. Those documents, as
16 of Sunday night, are still classified as confidential.

17 Thank you for your time.

18 THE COURT: Thank you, Mr. Hein.

19 Now, counsel for AAFAF.

20 MR. FRIEDMAN: Good morning, Your Honor. It's Peter
21 Friedman from O'Melveny & Myers on behalf of AAFAF. Let me
22 start by saying that we believe --

23 THE COURT: Good afternoon.

24 MR. FRIEDMAN: I'm sorry, Your Honor.

25 THE COURT: I just said good afternoon. Now you can

1 start.

2 MR. FRIEDMAN: Good afternoon. Sorry, Your Honor.

3 The confirmation process we actually believe should
4 move forward expeditiously. We think DRA's proposed schedule
5 is vastly excessive, but we do think there is a necessary
6 tweak in the Board's proposed confirmation schedule because,
7 as formulated, there's no opportunity for the government to
8 know how the Board intends to use a confirmation order to
9 effectuate a claim that lacks implementing legislation and
10 other necessary government support if the parties can't get
11 there.

12 Just to reiterate, I think what Mr. Rapisardi said,
13 we clearly hope we can, but the Board claims that without
14 legislation, it can still move forward. This is an untested
15 theory. And without legislation implementing regulations from
16 Hacienda, AAFAF, et cetera, an exceptionally detailed
17 confirmation order will have to be proposed with respect to
18 issuance of new bonds and CBIs.

19 The government is going to need meaningful time to
20 object to that kind of detailed order, both on legal grounds
21 -- but the terms proposed may not be lawful -- and on
22 practical grounds, if the terms being forced aren't feasible
23 because they impose unreasonable time constraints on the
24 government, or don't sync with governmental accounting,
25 reporting, or tracking systems.

1 Both of these have serious potential consequences,
2 the first of which, bonds may not be issuable, but the bells
3 and whistles that get stuck into a confirmation order, and the
4 second, the new contracts get instruments that will be court
5 ordered. It could be done without a full testing whether
6 means and measures to implement them can actually be managed
7 by the government. That would, of course, affect
8 marketability and, ultimately, potentially undermine the
9 ultimate goal of PROMESA and getting back to the capital
10 markets.

11 To ensure the government has adequate time to object
12 to these novel issues, we'd request that the confirmation will
13 be filed 28 days prior to the confirmation hearing. And we'd
14 have 14 days to object to specific provisions in the
15 confirmation order, including, if necessary, to submit
16 affidavits as to impracticability of things, to the lack of
17 compatibility of government practices.

18 The Board has seven days to respond, leaving a week
19 before the hearing for the Court to consider full briefing on
20 this. We hope this can avoided, but these are serious matters
21 that need a full, fair briefing both for this Court and, if
22 necessary --

23 (Sound played.)

24 MR. FRIEDMAN: -- for a highly expedited appeal.

25 I have nothing further, Your Honor.

1 THE COURT: Thank you.

2 I'd just like to explore with you a little bit more
3 what you would expect to have decided upon that specific
4 briefing. Obviously, with something that important and
5 something that complex, it would be important to have a
6 specific record of the elements of the objection to the order,
7 and a response to those objections.

8 But before any order could be entered at all, of
9 course we'd have to have the trial record and the litigation
10 of other issues. By proposing this seven days for the Court's
11 consideration as a full briefing, are you suggesting that we
12 would have some sort of summary judgment or matter of law type
13 process as to whether the confirmation hearing would go
14 forward on schedule at all, if what the Board is proposing is
15 an order that bypasses legislation? Or are you just trying to
16 have all of those issues wrapped up so that if I find the Plan
17 is otherwise confirmable, the issues with respect to the order
18 can be dealt with at the tail end in an informed and organized
19 fashion?

20 MR. FRIEDMAN: The latter, Your Honor. We want to do
21 as little violence as possible to the concept of moving
22 confirmation along, and so we don't think there have to be
23 gating hearings. We think -- and in my view, this is just a
24 mechanism to allow a very specific issue to have -- to have
25 full briefing, and to be fair to us, to let us really consider

1 what's being proposed.

2 To have a confirmation order published during the
3 middle of confirmation hearings that would deal with such
4 important issues, I think it wouldn't really be fair, and
5 wouldn't provide an adequate record. But we're not asking the
6 Court to decide, meaning separately, not to have a summary
7 judgment type proceeding, but, rather, to consider this in the
8 full nature of the confirmation hearing.

9 THE COURT: Thank you for clarifying that.

10 MR. FRIEDMAN: Thank you.

11 THE COURT: Finally, we have the Retiree Committee.
12 Ms. Steege?

13 Ms. Steege, I can't hear you, so if you're there, you
14 need to unmute.

15 Ms. Ng, is Catherine Steege, or Steege, on the list
16 and is she unmuted?

17 MS. NG: Catherine Steege is on. Do you want me to
18 unmute her?

19 THE COURT: Yes, please.

20 MS. NG: Ms. Steege.

21 MS. STEEGE: Good afternoon, Your Honor. Catherine
22 Steege from Jenner & Block on behalf of the Retiree Committee.
23 I hadn't logged onto the dashboard, so I don't know how that
24 muted me, but I apologize for that.

25 We're happy to report that the Retiree Committee has

1 resolved its issues with respect to this motion. We thank
2 Ms. Dale from the Oversight Board, who worked with us over the
3 weekend to resolve our one remaining issue.

4 So with that, we have nothing further to add.

5 THE COURT: Thank you. It's Steege?

6 MS. STEEGE: Steege, yes, Your Honor. It sounds like
7 a long A.

8 THE COURT: Thank you. At some point I will
9 pronounce your name right in these procedures. Sorry. It's
10 taken me four years, and I'm still getting it wrong. But I
11 try to --

12 MS. STEEGE: No problem, Your Honor. Everyone says
13 it in a variety of different ways.

14 THE COURT: Thank you for being gracious about that.

15 All right. So I am assuming that the Oversight Board
16 wishes to wait to make its response until after we know what
17 all the arguments are tomorrow morning; is that correct?
18 Mr. Rosen?

19 MS. DALE: Your Honor, it's Margaret Dale. I'm going
20 to respond to that.

21 THE COURT: Okay.

22 MS. DALE: Good afternoon. Margaret Dale on behalf
23 of the Oversight Board.

24 Yes, we would like to defer, and we'll address these
25 issues tomorrow, if that's all right with the Court.

1 THE COURT: Very well. That's fine.

2 So what we will do in a moment is commence our lunch
3 break, and come back, and after lunch, hear the arguments of
4 the three remaining pro se objectors. Then, unless I've
5 missed something, I think that will be as far as we can go
6 today.

7 We would plan to reconvene tomorrow morning at 9:30,
8 go until ten minutes before noon, pick up as necessary at ten
9 minutes after 2:00, and then complete the arguments and
10 whatever rulings I can do on the record by the end of the
11 afternoon.

12 So if anyone has a different view about what this
13 afternoon or tomorrow should look like, you can tell me when
14 we come back. At this point, please all disconnect when I say
15 to disconnect, and be back on and ready to proceed at ten past
16 2:00. All right.

17 So we're on our lunch break. Please disconnect.
18 Talk to you at ten past 2:00.

19 Thank you so much.

20 (At 12:53 PM, recess taken.)

21 (At 2:02 PM, proceedings reconvened.)

22 THE COURT: Buenas tardes. Good afternoon. This is
23 Judge Swain speaking.

24 MS. NG: Hi, Judge. It's Lisa, your courtroom
25 deputy.

1 THE COURT: Can you hear me?

2 MS. NG: Yes, Judge. Can you hear me?

3 THE COURT: Very good. I can hear you. Is
4 everything ready?

5 MS. NG: Yes. Everything's good to go.

6 THE COURT: Terrific. Thank you.

7 Again, good afternoon to all. We are continuing the
8 hearing on the objections to the Disclosure Statement approval
9 motion in *In re: Financial Oversight and Management Board*,
10 docket no. 17-3283.

11 In this segment of the hearing, we will hear from the
12 pro se objectors, and we have an interpreter present for the
13 individual who has indicated that she wishes to make her
14 remarks in Spanish. I am not sure whether that individual is
15 there, and so I will give general instructions now.

16 Each pro se speaker is being allotted eight minutes.
17 We will keep track of the time, and we will play a buzz sound
18 when there are two minutes remaining, and two buzz sounds when
19 the speaker's time is up.

20 Mr. Foster, may we have an example of the buzz sound,
21 please?

22 (Sound played.)

23 THE COURT: Thank you.

24 Thank you, speakers, for your cooperation with this
25 procedure, which is also being followed with the time

1 allocations for the lawyers who have been speaking at this
2 hearing.

3 The first speaker in opposition is Antonio Martin
4 Cerezo. Mr. Martin Cerezo, are you there?

5 MR. CEREZO: Good afternoon. Shall I start?

6 THE COURT: Good afternoon, sir. I'm Judge Swain.
7 Good to meet you by telephone. You may begin your remarks.

8 MR. CEREZO: Good afternoon. My name is Antonio
9 Martin Cerezo. I'm an architect. I was born in Havana, and I
10 arrived to Puerto Rico on November 8, 1960. I was then 22
11 years old.

12 In 1963, I wanted to be an independent practitioner.
13 As such, I would not have the benefit of a big company
14 providing me with retirement checks. I had to start saving
15 immediately.

16 The bonds looked a good instrument for me. The bonds
17 were sure and trustable. They were issued by Puerto Rico, and
18 guaranteed by the Puerto Rico Constitution. The bonds were
19 issued to help finance Puerto Rico development in different
20 areas, to benefit Puerto Rico's transformation. Economy at
21 that time was full of dreams. I was also a dreamer. Bonds
22 were tax free. That was good for savings.

23 My saving bonds, I had the opportunity to cooperate
24 with the development of the island to become more independent
25 of the United States regarding the political direction that

1 they would take in the future. I was directed to an important
2 security trading company to protect my investments. The
3 government at that time was a respectable institution, which
4 denounced corruption and punished it.

5 One day around 2012, things started to go really bad.
6 One day, when I arrived to the company, which I was an
7 investor and I felt so well protected, I saw real sad faces.
8 Happiness had stopped. They were looking down and walking
9 fast. All Puerto Rican bonds were reduced to half, one half
10 in one day.

11 First responses were confusing, but I found that
12 allegedly unscrupulous bondholders put their Puerto Rican
13 bonds as guarantee for cheap big loans to spend. They used
14 cheap money to do quick operations which brought down the
15 value of their respective bonds. Their actions compromised
16 bona fide bonds of ours.

17 The company director in Puerto Rico was charged, but
18 later nothing happened and nobody was indicted. Some people
19 filed bankruptcy. Bonds were worth nothing. The company
20 invented something to put some dollars in the pockets.
21 Repurchase, they called. The same company repurchased around
22 full -- half of the client bond portfolios, and at least put
23 some cash in the investors' pocket, but half of the capital
24 never came back.

25 The government had gone nuts. It was the beginning

1 of the careless government we are immersed now, dedicated to
2 promote spending instead of promote production. The
3 government interpretation of the legals were at the following.
4 The COFINA bonds all of a sudden were found to be that all the
5 bonds were not equal. They were juniors or seniors. The
6 juniors were priced one half of the value of the seniors, and
7 of course I had juniors.

8 Nobody knew. I had never been shown a real bond in
9 my life, only papers, and nobody spoke about that. And I
10 paid the same price, and the rest of the people, who buy money
11 or influence, had bought the seniors at the same price.

12 The other good one is that the Constitution did not
13 guarantee all the bonds issued equal. Of course, mine were
14 not guaranteed. What about U.S. Constitution? The money
15 received for our bonds was not used for the purpose as stated
16 on the bond face at all times. You could have invested in
17 safe -- in retirement, but funds were gone for something else.
18 Nobody knows. Could that be corruption? The bonds did not
19 have repayment funds committed. A completely absurd word for
20 a solid future.

21 Since 2016, the day the bonds were -- fell down and
22 lost their value to 2021, we have had to stay working, and
23 some bonds have been renegotiated at a reduced price. At
24 2016, I was 78 years old. I had passed my retirement by 13
25 years. I am now 82.

1 Now, what are the first government public
2 expressions? On 2016, the Governor Garcia Padilla's speech,
3 there is no money to pay the debt, he said, with a big smile.
4 I have no bonds. He was very funny. We cannot pay even the
5 interest. Hilarious. Puerto Rico investors were called
6 names, vultures. Big smiles. No comments. Very funny.
7 People started calling us names.

8 The truth, bona fide investors are broke. Everybody
9 is making fun of us. They are calling us vultures. And that
10 is completely wrong. We bought with hundred percent dollars.
11 A vulture is supposed to be that that buys at 50 percent and
12 then sells at a hundred. We're Puerto Rican working people
13 ripped off by the government of Puerto Rico in -- and very
14 little understanding of why are we not entitled to be paid.

15 What I believe the government should do now. He
16 becomes serious again. The government has to be -- has to
17 bring responsibility to pay before they issue bonds again.
18 These are the last bonds that are remaining now. The
19 called -- so-called GOs, the retirement bonds --

20 (Sound played.)

21 MR. CEREZO: My unpaid bonds are called retirement
22 bonds. That is what is written on them.

23 I lent my money to pay retirement of public
24 employees. I believe I shall be paid also my retirement bonds
25 a hundred percent. Why pay the public employees full, and

1 give us a few cents? Why not to pay us some of the unpaid
2 interest, too? No have -- why cannot all of this be done?
3 And prepare the island for a new -- for a full future.

4 Thank you very much.

5 THE COURT: Thank you very much, sir. And I am so
6 very sorry to hear about the impact on your own life and --

7 MR. CEREZO: Thank you.

8 THE COURT: -- expectations with what has happened
9 with the bonds. Thank you for sharing this with me publicly.

10 MR. CEREZO: Thank you.

11 THE COURT: I now call upon Nancy Negron Lopez.

12 MS. NEGRON LOPEZ: Good afternoon. My name is Nancy
13 I. Negron Lopez, and I'm retired, a policewoman. I served 22
14 years here in Puerto Rico, and I am very grateful to be alive,
15 Honorable Laura Taylor, to state my objections.

16 On the first place, I would like to state that all
17 retirees, we pay our retirement. It's not a charity. We
18 serve most of us over 20 years, and we risk our lives. And
19 many, as myself, I have served honorably in United States
20 Army.

21 Right now, with what we get of our retirement is not
22 even enough to support ourself. Many of us are working other
23 jobs after they had retired, because they cannot support their
24 families.

25 Therefore, I would like to state, too, that we are

1 | trying to see that there is other ways that the investors can
2 | collect what -- they already have a place, but they have to
3 | put responsibilities on those who has mismanaged those funds
4 | that had been already allocated to pay our retirement pension.

5 | If we are deduct from this, we will be placing
6 | economical bandage. Therefore, I'm asking to find other ways
7 | of collecting for those in investment -- investors who have
8 | the right to make a profit. I'm not saying. But it cannot be
9 | upon the people who were not corrupt or appropriate of those
10 | funds. There must be a better investigation.

11 | And those people who are found guilty of those
12 | corruption, of mismanage of those funds, should be seized. If
13 | they have a million dollar house, they should be seized of
14 | that house to be -- in order to pay for those funds that have
15 | been misappropriated, not should be in a burden of honorable,
16 | hard working people who have worked all their lives in order
17 | to support their families, and be able to be -- living a
18 | worthy life, not to be begging.

19 | Because as it is, for example, I have to help my
20 | mother, who has a terminal cancer. She's 80. My dad has
21 | Alzheimers. I have to take care of him. If it wasn't I help
22 | him -- and he help me also economically, because with what I
23 | get for my pension is not enough to support myself. But I
24 | work hard with my family, and I help other people. And I
25 | think it's our right not to be decreased on our pension funds.

1 On the contrary, I think all these people who have
2 worked all their life, and especially police people did not
3 invest in Social Security. At those time, we couldn't. So
4 many of them, like I said, they are working other jobs to be
5 able to support themselves. So maybe they should have the
6 right to be increased, their retirement fund.

7 And that's why governments are formed. The Governor
8 of Puerto Rico should find other ways to have investments in
9 order to pay their debts and not to be a burden on the United
10 States. We don't want to be a burden. That's why we have
11 worked all our lives. Therefore, I think they have the right
12 to have an honest pension, which is not because it has been
13 decreased. It was supposed at the beginning to be 75 percent.
14 They're giving 42 percent to the majority.

15 I was lucky to have retired with half of my pension,
16 but still, like I said, it's not enough. And it's not right.
17 It's very unjust. And I feel like it's to a point illegal
18 that other people misallocated those funds, and we are the
19 ones who have to pay.

20 That's why they are paying some people a great amount
21 of money in order for them to provide with other types of
22 investments that -- right now just sometimes we have the
23 technology that we can send all paperwork by e-mail, and we
24 don't have to spend so much money sending so many papers, that
25 sometimes like myself don't even have the time or the -- the

1 intelligence to know all about it.

2 And it's a waste of money. There's many -- much
3 money that can be saved by just investing properly. And I
4 believe that if we do things in that manner, we can be paying,
5 but at the same time, not put the middle class, who have
6 worked and earned their pension in the economical boundary,
7 which Puerto Ricans, which are hard working people who has
8 served the United States Army, Marines, or any other branch,
9 honestly, these are the same rights that everybody.

10 So, therefore, I'm pleading not to be decreased in
11 our pension. If possible, find many other ways. That's what
12 they're being paid to investigate, where those funds, and to
13 also make other ways of investments so we can be free of
14 economical boundaries.

15 And I -- and again, I thank you for listening, but
16 these are some of my objections, and stating the rights of
17 many who are like myself, or even worse.

18 THE COURT: I thank you for coming to court and
19 speaking so plainly about your objections and about your
20 circumstances, and also for the challenges and suggestions
21 that you have made. Thank you very much, Ms. Negron Lopez.

22 MS. NEGRON LOPEZ: Thank you.

23 THE COURT: And I understand that the third speaker,
24 Yashei Rosario, is here. I will repeat what I said about the
25 procedure. But first, I will ask the interpreter to introduce

1 him or herself and state whether you are a certified
2 interpreter.

3 THE INTERPRETER: Yes, Your Honor. Carol Terry,
4 USCCI.

5 THE COURT: Thank you.

6 So if you will interpret for Ms. Rosario, I will
7 restate the instructions.

8 Each speaker is being allotted eight minutes in this
9 segment. We will keep track of the time, and a buzz sound
10 will be played when there are two minutes remaining, and two
11 buzzes will sound when the speaker's time is up. Here is an
12 example of the buzz sound.

13 (Sound played.)

14 THE COURT: Madam interpreter, tell me when you're
15 ready for me to continue.

16 THE INTERPRETER: Yes. You can continue, Your Honor.

17 THE COURT: Thank you. Are you doing simultaneous or
18 sequential?

19 THE INTERPRETER: No, I will be doing consecutive
20 when she speaks, once she starts speaking.

21 THE COURT: All right. But you're doing simultaneous
22 while I'm speaking?

23 THE INTERPRETER: Yes.

24 THE COURT: Thank you.

25 Ms. Rosario, thank you for your cooperation with this

1 procedure. It is the same procedure that is being followed
2 with the time allocations for the lawyers who are speaking at
3 this hearing.

4 So we will set your time at eight minutes, and you
5 may begin speaking. And work with the interpreter so that the
6 interpreter has time to translate what you are saying into
7 English for me.

8 Thank you. You may begin now.

9 MS. ROSARIO: Okay. (Remarks in Spanish.)

10 THE INTERPRETER: Good morning. My name is Myriam
11 Yashei Rosario.

12 THE COURT: Madam interpreter, I can't hear what
13 you're saying. I hear Ms. Rosario, but I can't hear you.
14 Perhaps you can change places so that the interpreter is
15 closest to the microphone.

16 I can't hear anyone now.

17 MS. ROSARIO: (Remarks in Spanish.)

18 THE INTERPRETER: Go ahead.

19 MS. ROSARIO: My name is Myriam Yashei Rosario,
20 better known as Yashei Rosario. I am the president of the
21 Development of Socioeconomic and Sustainable Trust of Vieques.
22 As a people, we organize ourselves to find solutions and
23 options for the survival of our people, and we created a
24 development plan for the Island of Vieques.

25 And this development plan consists of an amusement

1 park and a historical park of the history of Puerto Rico, and
2 Vieques, and the Caribbean. And this would be the alternative
3 to solve the problems of the island. And this will allow the
4 creation of recreational activities that you might not
5 believe, but we do not have any on the Island of Vieques.

6 And this will provide for drive-in cinemas, an
7 aquarium, the history of Vieques and Puerto Rico. And this
8 will create sources of collect -- to be able to create sources
9 of collection, to be able to build and maintain the University
10 of Vieques campus.

11 And also, we do not have a hospital. And FEMA,
12 having spent 39.5 million dollars since 2017, we still do not
13 have a hospital. And we would like to build, with these
14 sources of funding, a private hospital of the people of
15 Vieques.

16 MS. ROSARIO: Owned by the people of Vieques.

17 THE INTERPRETER: Owned by the people of Vieques.

18 MS. ROSARIO: And as the creator of this project, I
19 own 30 percent of the shares. And I am here to donate ten
20 percent of my shares, to pay as a source of repayment of the
21 fiscal debt of Puerto Rico, which means that our offer is
22 better than the restructuring of the Oversight Board.

23 And since we are only a corporation, we're going --
24 we're going to start construction now. The funds from the IVU
25 sales tax of the corporation can be reserved exclusively to

1 pay the fiscal debt. Ten percent, plus 10.5 percent, is equal
2 to 20.5 percent, which is the source of -- source of
3 repayment.

4 The Oversight Board or the Government of Puerto Rico
5 do not have a way to repay the bondholders. And so our
6 corporation provides a solution and an option as a source of
7 repayment to prevent the taking away of the retirement of the
8 pensionees of Puerto Rico.

9 And this would be a public-private alliance, and we
10 would request the collaboration of both the Fiscal Overboard
11 -- the Oversight Board and the government to help with the --
12 to help the people of Vieques, because, for 63 years, they
13 helped with the National Security affairs, and they have never
14 received anything in exchange for that. And we were hit by
15 over 900,000 live bomb explosions, and received nothing in
16 exchange.

17 (Sound played.)

18 MS. ROSARIO: But we have visited the Congress, and
19 they informed us, specifically Senator John Sheehan of the
20 Armed Forces Committee, who said that all compensation had
21 been sent to the Government of Puerto Rico. And we never saw
22 a cent.

23 And now I request the public-private alliance, and
24 for assistance with financing to be able to create the
25 repayment source and get out of this mess we're in. And I

1 believe this is an extraordinary alternative for me to be
2 offering, just out of the love that I have for Puerto Rico,
3 ten percent of my shares.

4 I believe no politician of the House of
5 Representatives, or the Senate of Puerto Rico, or the
6 Governor's mansion, Fortaleza, would be willing to give up ten
7 percent of their salary each to resolve the problems that they
8 themselves put us in.

9 (Sound played.)

10 MS. ROSARIO: And I am here before the Honorable
11 Court on behalf of the people of Vieques. And all this
12 presentation is in the PACER system. And we request -- we
13 request consideration, because we are at the utmost disposal
14 to resolve this fiscal debt together, because as Puerto
15 Ricans, we voted for these bad managers, and we must assume
16 responsibility for that debt.

17 Thank you.

18 THE COURT: Thank you. Thank you, Ms. Rosario, for
19 coming in and sharing your history, and your visions, and your
20 proposal, which has been heard by the Oversight Board and
21 government representatives who are listening.

22 The motion before me is for approval of a
23 description, the Disclosure Statement with respect to the
24 offer that is being made by the Oversight Board at this point,
25 its proposal. Thank you for indicating publicly your proposal

1 for alternative consideration, and your invitation to the
2 authorities to partner with you.

3 That is the conclusion of our hearing for today. We
4 will resume by the telephonic arrangements tomorrow morning at
5 9:30 for the conclusion of the arguments and the hearing.

6 Thank you all. Stay safe, and be well everyone. We
7 are adjourned.

8 (At 2:43 PM, proceedings concluded.)

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1 U.S. DISTRICT COURT)
2 DISTRICT OF PUERTO RICO)

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4 I certify that this transcript consisting of 134 pages is
5 a true and accurate transcription to the best of my ability of
6 the proceedings in this case before the Honorable United
7 States District Court Judge Laura Taylor Swain, and the
8 Honorable United States Magistrate Judge Judith Gail Dein on
9 July 13, 2021.

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S/ Amy Walker
Amy Walker, CSR 3799
Official Court Reporter

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